

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

In re:	*	
	*	
GORDON PROPERTIES, LLC,	*	Case No. 09-18086-RGM
	*	Chapter 11
Debtor.	*	
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GORDON PROPERTIES, LLC,	*	
	*	
Debtor,	*	
	*	
v.	*	Contested Matter
	*	(Objection to Proof of Claim No. 2-1)
FIRST OWNERS' ASSOCIATION OF	*	
FORTY-SIX HUNDRED	*	
CONDOMINIUM, INC.,	*	
	*	
Creditor.	*	

FIRST OWNERS' ASSOCIATION OF FORTY-SIX HUNDRED CONDOMINIUM, INC.'S RESPONSE TO DEBTOR'S SUPPLEMENT TO MOTION FOR AWARD OF ATTORNEYS' FEES AS PREVAILING PARTY

First Owners Association of Forty-Six Hundred Condominium, Inc. ("FOA"), by counsel, for its response to Debtor's Supplement to Motion for Award of Attorneys' Fees As Prevailing Party states as follows:

INTRODUCTION

In its Supplement to Motion for Award of Attorneys' Fees As Prevailing Party ("Supplement") with respect to Debtor's Objection To Claim Of First Owner's Association ("Claim Objection") [Docket Number 99], Debtor requests that this Court award it \$281,910 in attorneys' fees relating to its objection to the Proof Of Claim filed by FOA in this bankruptcy

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proceeding.¹ Debtor's claim for attorneys' fees is predicated solely upon Va. Code § 55-79.53A, a section of the Virginia Condominium Act that allows for a prevailing party to recover attorneys' fees in limited circumstances. Debtor's prosecution of its Claim Objection does not come within the parameters of Va. Code § 55-79.53A. Accordingly, Debtor is not entitled to an award of any attorneys' fees.

Additionally, many of the positions and claims asserted by the Debtor in its Claim Objection were dismissed on summary judgment demonstrating that FOA was the prevailing party with respect to a number of issues raised in the Claim Objection. Indeed, the value of the claims on which FOA was successful far exceeds the value of FOA's claim. Therefore, Debtor should not be deemed the prevailing party in this matter. In the alternative, none of its attorneys' fees relating to the summary judgment motions should be awarded because the Debtor did not prevail with respect to the issues raised on summary judgment by both parties.

Even if the Court decides that the Debtor may proceed with its claim for attorneys' fees under Va. Code § 55-79.53A, the Court should not decide Debtor's motion for an award of attorneys' fees until the appeal of the denial of FOA's claim is decided. The appeal is pending with Judge Brinkema and has been stayed as a result of this Court directing the parties to mediation. It would be unfair to allow the Debtor to proceed with its request for further relief while FOA is prohibited from proceeding with its appeal. The interests of judicial economy are also served by the Court not taking any action with respect to Debtor's motion for an award of attorneys' fees until the appeal is decided.

¹ Debtor requests an award of \$198,950 with respect to attorney's fees it claims arise from the prosecution of its Claim Objection, and also requests \$82,960 for attorney's fees the Debtor contends were expended with respect to settlement discussions.

Further, there are a number of entries in the invoices submitted in support of the request for attorneys' fees that do not sufficiently identify the work performed or that do not relate to the Claim Objection. Debtor has the burden of demonstrating that the attorneys' fees claimed are reasonable.

Finally, the Debtor posits no basis for its request for \$82,960 in fees relating to its alleged efforts to obtain a global settlement with FOA. Even if Va. Code § 55-79.53A were applicable, it only provides for attorneys' fees directly arising from the underlying Claim Objection filed by the debtor. Debtor's request for \$82,960 for attorneys' fees relating to its alleged settlement efforts has no legal basis and is blatant overreaching by the Debtor.

BACKGROUND

Underpinning the Debtor's claim for attorneys' fees is the debtor's Claim Objection to a claim asserted by FOA in this bankruptcy proceeding relating to certain assessments made with respect to the street-front unit owned by the Debtor that resulted from certain state court litigation. This state court litigation, which then spilled over into the Bankruptcy Court, provides context for the claim for attorneys' fees and demonstrates that no such fees should be awarded to the Debtor.

As this Court is aware from numerous other pleadings, Gordon Properties LLC ("GP") commenced a lawsuit in the Alexandria Circuit Court on February 20, 2008, against FOA, *Gordon Properties, LLC v. First Owners Association of Forty-Six Hundred Condominium*, case number CL08-1432, challenging FOA's assessments for the years 2003-2008. Count I of the Complaint filed by the Debtor in that case was predicated upon Va. Code § 55-79.53A – the same statute the Debtor now relies upon for its claim for attorneys' fees – and contained a request for an award of attorneys' fees under 55-79.53A. *See* Complaint, without attachments,

attached as Exhibit 1. FOA filed a Demurrer to that count claiming that the code section did not apply to GP's challenge to the assessment methodology used by FOA for years 2003-2008. The Circuit Court for the City of Alexandria sustained that Demurrer and dismissed Count I. *See* Exhibit 2.² In doing so, the court found that GP's challenge to the assessment methodology and other assessments made by FOA for the years at issue did not arise under Va. Code § 55-79.53A.

The court in case number CL08-1432 based its decision in part on a ruling in a prior GP lawsuit against FOA known as *Gordon Properties, LLC v. First Owners Association of Forty-Six Hundred Condominium*, case number CL06-3060. In that case, GP alleged that FOA improperly terminated Condominium Services, Inc. as its manager and requested, among other things, an award of attorneys' fees under Va. Code § 55-79.53A. The claim for attorneys' fees was dismissed on summary judgment by Judge Annunziata (a Virginia Court of Appeals judge sitting by designation) who held that § 55-79.53A did not give rise to a claim for attorneys' fees by a unit owner who pursues a claim against its association. Judge Annunziata issued a letter opinion, attached as Exhibit 3, explaining the basis for her decision. Despite these prior decisions, GP pursues the same rejected theory for recovery of attorneys' fees here.

Case number CL 08-1432 eventually proceeded to trial and a final order was entered on July 27, 2009, denying GP's claims against FOA with respect to its assessment methodology. As part of its ruling, the court also held that the Debtor's street-front unit was subject to assessment by FOA. Following entry of the final order in case number CL08-1432, FOA made a corrective assessment with respect to the Debtor's street-front unit for the years 2003 through 2008. When the Debtor refused to pay that assessment FOA placed a lien on its street-front unit pursuant to

² The Order attached as Exhibit 2 is signed by counsel and was submitted to the court for entry. A certified copy of the Order will be provided at the September 20, 2013 hearing.

Va. Code § 55-79.84. FOA did not file suit to enforce that lien, and in fact, never filed any lawsuit of any kind against the Debtor to collect the corrective assessment for 2003-2008.

Subsequent to FOA placing a lien on the Debtor's street-front unit, GP filed for bankruptcy on October 2, 2009. On January 29, 2010, FOA filed its Proof of Claim which consisted of the unpaid assessments with respect to the Debtor's street-front unit for the years 2003-2008. Eight months later on September 27, 2010, the Debtor filed its Claim Objection in which it challenged FOA's Proof of Claim and requested significant additional relief. In the fifteen-page Claim Objection, the Debtor not only challenged FOA's Proof of Claim, but requested additional relief with respect to assessment methodology and other fees assessed by FOA with respect to the Debtor. For example, in the Claim Objection the Debtor asked the Court to declare that the FOA board of directors had no authority to levy annual assessments on the street-front commercial units, that the assessments did not comply with the methodology identified by the Alexandria Circuit Court, and requested a "credit," and/or "set off" for what it contended were improperly imposed user fees, late fees and offsite owner fees. Debtor concludes its Claim Objection by requesting that "the claim be disallowed and that any over assessments or improper assessments be credited to Gordon Properties' account and that Gordon Properties be permitted to set off such amounts against the claim." In short, the Claim Objection did not merely ask that the claim asserted by FOA be disallowed, but rather requested affirmative relief from this Court.

On November 2, 2010, FOA filed a motion for partial summary judgment with respect to the Claim Objection challenging sections V, V-B³ and VII of the Claim Objection. [Docket Number 108]. Debtor subsequently filed its own motion for summary judgment on February 11,

³ In the Claim Objection there are 2 sections "V." In its memorandum granting FOA's motion for partial summary judgment, the Court designated the second section V as "V-B."

2011 [Docket Number 165]. After significant briefing and oral argument, the Court issued its decision on the cross motions for summary judgment on July 21, 2011. [Docket Number 235.] The Court granted FOA's motion for partial summary judgment as to counts V, V-B, VII-A and VII-C of the Claim Objection. The Court denied Debtor's motion for summary judgment in its entirety. By granting FOA's motion for partial summary judgment, the Court denied GP's request that the Court declare that the street-front unit could not be assessed, denied GP's request that the Court declare that the assessments were not done in conformance with the decision of the Circuit Court for the City of Alexandria, and denied GP's request for a "credit," or a "set off," with respect to user fees and late fees. The Debtor noted an appeal to the District Court with respect to the Court's ruling on the cross motions for summary judgment but subsequently voluntarily withdrew that appeal.

On February 2, 2012, on the eve of trial on the Claim Objection, the Debtor filed a Motion To Reconsider Or Clarify Summary Judgment Order And Memorandum Opinion [Docket Number 324]. By Order entered on February 15, 2012, [Docket Number 346] this Court denied the Debtor's Motion for Reconsideration.⁴ As stated by the Debtor in its Supplement, the Claim Objection then proceeded to a multi-day trial. On August 23, 2012, this Court entered an Order disallowing FOA's claim.

On September 6, 2012 FOA filed a Notice of Appeal with respect to the denial of its claim. That appeal was docketed with the United States District Court for the Eastern District of Virginia on October 16, 2012 and is known as Case Number 1:12-cv-01155-LMB-IDD. Within a week of the appeal being docketed in the district court, counsel for FOA, both Reed Smith and Leclair Ryan withdrew as counsel for FOA (Reed Smith after being terminated by the FOA

⁴ The court did clarify its prior memorandum opinion.

Board of Directors). On October 25, 2010 a Motion to Stay Appeal pending mediation was filed in the case and an Order was entered that day staying any proceedings in the appeal pending a court-ordered mediation process. The appeal remains stayed with FOA unable to pursue it while the debtor seeks its attorneys' fees in the pending motion.

ARGUMENT

I. The Debtor Has No Claim For Attorneys' Fees Under Va. Code § 55-79.53A.

Debtor's reliance upon Va. Code § 55-79.53A as the sole basis for its claim for attorneys' fees is misplaced because that code section does not apply to a claim filed by a unit owner against its association. The Claim Objection was a challenge – just like Case number CL08-1432 – to the assessment methodology of FOA. The Debtor is very much aware that § 55-79.53A does not allow a claim for attorneys' fees under these circumstances because it unsuccessfully raised the same claim for attorneys' fees in two prior state court law suits against FOA. Those decisions were based upon the plain language of Va. Code § 55-79.53A which demonstrates that the Debtor has no basis to request attorneys' fees under that code section. Therefore, Debtor's request for attorneys' fees should be denied.

Va. Code § 55-79.53A states as follows:

The declarant, every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association, or by its executive organ or any managing agent on behalf of such association, or, in any proper case, by one or more aggrieved unit owners on their own behalf or as a class action. A unit owners' association shall have standing to sue in its own name for any claims or actions related to the common elements as provided in subsection B of § 55-79.80. The prevailing party shall be entitled to recover reasonable attorneys' fees and costs expended in the matter. (Emphasis added).

Va. Code § 55-79.53A authorizes two types of litigation: (1) an action for failure to comply with provisions contained in relevant condominium instruments or in the Condominium Act, and (2) an action by a unit owners' association for any claims or actions related to the common elements of a condominium. The statute very specifically identifies the potential parties who may be sued under that code section and they do not include a unit owners' association. Instead, the three entities identified in the statute are "the declarant, every unit owner, and all those entitled to occupy a unit." Because neither an association nor its board of directors is identified in the first sentence of the code section, it has no application to them. The only exception is if the association brings a lawsuit against a unit owner which is not the case here. The Claim Objection was an affirmative action filed by GP against FOA and it cannot give rise to claim for attorneys' fees under Va. Code § 55-79.53A.

This is precisely the conclusion Judge Annunziata reached in *Gordon Properties, LLC v. Board of Directors of First Owners' Association of Forty Six Hundred Condominium, Inc.*, Case No. CL06-3060. In that case, the court held that "Under the plain meaning of the statutory language, the Board is not named as one of the possible parties defendant; . . ." Letter Opinion at p. 2. The Court also held that "it must be concluded that the legislature's enumeration of specific parties defendant that omits reference to the governing body of the unit owners' association, e.g. the Board or "executive organ" of the association, was intentional." *Id.* Like the Board, the Association is not one of the specific parties defendant enumerated in the code section. Therefore, it is equally clear that the code section does not create a claim for attorneys' fees by a unit owner who seeks judicial relief against an association. Because Va. Code § 55-79.53A has no application here, Debtor's request for attorneys' fees must be denied.

Application of well settled principles of statutory construction demonstrates the correctness of Judge Annunziata's conclusion and that Va. Code § 55-79.53A does not provide a basis for an award of attorneys' fees in favor of the debtor. When interpreting a statute, the Supreme Court of Virginia has repeatedly held that the courts "have a duty to construe the law as it is written. In doing so, we assume that the legislature chose, with care, the words it used when it enacted the relevant statute, and we are bound by those words." *Simon v. Forer*, 265 Va. 483, 490, 578 S.E.2d 792, 796 (2003); *see also Barr v. Town & Country Properties, Inc.*, 240 Va. 292, 295, 396 S.E.2d 672, 674 (1990). In *Couplin v. Payne*, 270 Va. 129, 135, 613 S.E.2d 592, 595 (2005), the Supreme Court of Virginia held that "[u]nder the basic principles of statutory construction, we must determine the General Assembly's intent from the words contained in the statute. When the language of the statute is unambiguous, we are bound by the plain meaning of that language and may not assign the words a construction that amounts to holding that the General Assembly did not mean what it actually stated." The Supreme Court of Virginia previously held that "the language of Code § 55-79.53A is expressed in plain and unambiguous terms." *Mozley v. Prestwould Bd. of Dirs.*, 264 Va. 549, 555, 570 S.E.2d 817, 821 (2002). The Court also held in *Mozley* that "When a statute's language is plain and unambiguous, [the Court is] bound by the plain meaning of that language." *Id.*, 570 S.E.2d at 820. Interpreting Va. Code § 55-79.53A as written leads to the inescapable conclusion that GP has no claim under this code section for attorneys' fees.

Debtor relies on the *Mozley* in support of its request for attorneys' fees, but that case has no application here because it involved a lawsuit filed by an association against a unit owner – one of the three entities identified Va. Code § 55-79.53A – which is not the case here. Rather, Debtor filed its Claim Objection against FOA challenging the corrective assessment and seeking

additional relief against FOA. Va. Code § 55-79.53A clearly and unambiguously provides a right of action for the enforcement of condominium instruments when they have been violated by either “[t]he declarant,⁵ [a] unit owner,⁶ or [anyone] entitled to occupy a unit.” The legislature clearly identifies in Va. Code § 55-79.53A the entities against whom the cause of action created by the code section may be brought. Under the doctrine of “*expressio unius est exclusio alterius*,” the Court must conclude that the omission of “unit owners’ association” from the list of entities against whom an action may be brought under that code section was intentional. *See, e.g. Couplin, supra; Smith Mountain Lake Yacht Club, Inc. v. Ramaker*, 261 Va. 240, 542 S.E.2d 392 (2001); *Grigg v. Commonwealth of Va.*, 224 Va. 356, 297 S.E.2d 799 (1982). The *Smith Mountain Lake* case is particularly instructive. In that case the Court was asked to determine whether a statute, Va. Code § 28.2-1200, which states in pertinent part “[a]ll the beds of the bays, rivers, creeks and the shores of the sea within the jurisdiction of the Commonwealth . . . shall remain the property of the Commonwealth,” applied to Smith Mountain Lake. 542 S.E.2d at 395. The Court held: “[t]his statute specifically enumerates the categories of bodies of water that are subject to its provisions. The precise words of the statute do not include ‘lakes’ . . . thus we conclude that Code § 28.2-1200 does not apply to Smith Mountain Lake because the General Assembly chose not to include ‘lakes’ in its designation of bodies of water. . . .” *Id.* The Court

⁵ Va. Code § 55-79.41 (2007) states that:

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of his or its interest in a condominium unit not previously disposed of, including an institutional lender which may not have succeeded to or accepted any special declarant rights pursuant to § 55-79.74:3; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium.

⁶ Va. Code § 55-79.41 (2007) also provides that

"Unit owner" means one or more persons who own a condominium unit, or, in the case of a leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire balance of the unexpired term or terms. This term shall not include any person or persons holding an interest in a condominium unit solely as security for a debt.

based its decision upon “the maxim *expressio unius est exclusio alterius*, which provides that the mention of a specific item in a statute implies that other omitted items were not intended to be included within the scope of the statute.” *Id.* This is precisely the situation with Va. Code § 55-79.53A.

An association such as FOA is not one of the three entities specifically identified in § 55-79.53A against whom a lawsuit may be filed for non-compliance with the condominium documents. This is precisely what the Debtor sought in its Claim Objection; a determination that FOA did not comply with the condominium documents in making the corrective assessments. If the legislature intended to extend the application of Va. Code § 55-79.53A to include actions by a unit owner against the unit owners’ association it would have done so explicitly. Instead, just as in *Smith Mountain Lake*, the legislature chose not to include “unit owners’ association” – a defined term in the Condominium Act – in Va. Code § 55-79.53A.

In enacting Va. Code § 55-79.53A, the legislature demonstrated a thorough command of the terms, “declarant,” “unit owner,” and “unit owners’ association,” having mentioned each of them in that section. Other sections of the Condominium Act also use these defined terms in a way that demonstrates the legislature understands of the distinctness of these terms. As the Virginia Supreme Court held in *Simon*, “when the General Assembly uses two different terms in the same act, it is presumed to mean two different things.” *Simon*, 578 S.E.2d at 796. The General Assembly defines “declarant,” “executive organ,” “unit owner” and “unit owners’ association” in the Condominium Act and well understood that these are different entities. This demonstrates that the legislature intentionally did not include unit owners’ associations within the parameters of Va. Code § 55-79.53A. Therefore, the Debtor has no basis for a claim for attorneys’ fees relating to its Claim Objection.

II. Debtor Was Not The Prevailing Party With Respect To The Claim Objection Because FOA Prevailed On Numerous Claims Asserted By The Debtor In Its Claim Objection.

Even if the Court were to decide that Va. Code § 55-79.53A is applicable, the facts demonstrate that the Debtor was not the prevailing party with respect to its Claim Objection. In its Claim Objection the Debtor sought significant affirmative relief, including a finding by this Court that its street-front unit could not be assessed, that it was entitled to a credit in excess of \$100,000 for what it considered to be improperly imposed user fees, and was also entitled to a credit of “thousands of dollars,” for what it alleged were improperly assessed late fees. The Court dismissed all of these claims by the Debtor on summary judgment and the Debtor has not appealed any of these decisions. While the Court did grant Debtor’s request that FOA’s claim be disallowed, this decision is not final because that issue is pending on appeal to the United States District Court. In light of these facts, it is clear that the Debtor is not the prevailing party with respect to its Claim Objection and is not entitled to an award of attorneys’ fees. In the alternative, if the Court finds that the Debtor was the prevailing party on some issues, FOA clearly prevailed on others and should be awarded its fees arising from those issues.

Section V of the Claim Objection, starting at page 6, is entitled “The Board Has no Authority to Levy Annual Assessments on the Street-Front Commercial Units.” The assessments with respect to the debtor’s street-front commercial unit were in excess of \$50,000 annually. Therefore, the monetary value and importance of Debtor’s request that the Court determine that its street-front commercial unit could not be assessed was significant. Indeed, based on prior assessments, that claim had a value, looking at a ten-year window, of over a half a million dollars. This Court dismissed this claim on summary judgment ruling that it was barred by *res judicata* because the Debtor had lost this issue in a state court proceeding. Thus, FOA,

not the debtor, prevailed on a claim asserted by the Debtor with a value in excess of a half a million dollars.

In Section VII-A of its Claim Objection, the Debtor requested a “credit” for what it asserted were user fees improperly assessed against its single-user limited common elements. In paragraph 71 of its Claim Objection the Debtor alleged that it had paid “more than \$100,000 in assessments on its storage areas since 2002.” In paragraph 81 of its Claim Objection the Debtor alleged that “all of the amounts paid by Gordon Properties for assessments or user fees on its storage areas should be credited to Gordon Properties’ account and Gordon Properties should be permitted to set off any such amounts against the claim.” This claim by the Debtor was also dismissed on summary judgment. The Debtor itself in paragraph 71 of its Claim Objection placed the value of this claim in excess of \$100,000. Once again, FOA, not the Debtor, prevailed on a significant claim asserted in the Claim Objection.

In Section VII-C, the Debtor alleged that it had paid “thousands of dollars in unauthorized late fees since 2002.” Paragraph 91 of Claim Objection. The Debtor once again asked this Court to determine that the late fees were invalid and that the debtor be credited the “thousands of dollars” it paid in what it alleged were unauthorized late fees. The Court also dismissed this claim on summary judgment. Thus, FOA, and not the Debtor, is the prevailing party with respect to the Debtor’s claims regarding late fees.

In *Sheets v. Castle*, 263 Va. 407, 413, 559 S.E.2d 616, 620 (2002) – relied upon by the Debtor in its Supplement – the Virginia Supreme Court held that a prevailing party is one “in whose favor a judgment is rendered.” Plainly, judgment was rendered in favor of FOA and against the Debtor with respect to the claims described above. The monetary value of these claims is far in excess of the \$315,000 claim asserted by FOA in its Proof of Claim. Therefore,

based upon a review of the Claim Objection in its totality, FOA and not the Debtor is the prevailing party. Therefore, even if the Court finds that Va. Code § 55-79.53A applies, the Debtor is not entitled to recover its attorneys' fees relating to the Claim Objection. Indeed, under the definition of a "prevailing party" in *Sheets*, FOA is entitled to recover its attorneys' fees. *Id.* 559 S.E.2d at 620.

At a minimum, the Court must conclude that there is no overall prevailing party to whom attorneys' fees should be awarded because FOA prevailed on a number of significant claims asserted by the debtor and the debtor prevailed on other issues – at least for now. In *STB Systems, Inc. v. Micron Tech., Inc.*, 990 F.2d 1260, 1993 WL 121274, at *5 (9th Cir. Apr. 20, 1993), the court addressed the propriety of awarding attorneys' fees in a case where there was no "overall prevailing party." In that case the Ninth Circuit reversed the decision of the district court granting a judgment notwithstanding the verdict, but affirmed the district court's grant of a new trial on damages. *Id.* Finding that "there is no overall prevailing party," the court held that each party was required to pay its own costs and attorneys' fees. *Id.* At a minimum the same result should apply here. There is no doubt that FOA succeeded on a number of significant claims asserted by the Debtor in its Claim Objection. While the Debtor was successful – at least pending the results of the appeal – in having FOA's claim disallowed, it cannot be said that the Debtor is the prevailing party. In this instance in which both parties were successful and there was a "split decision," there is no prevailing party and the Debtor's claim for attorneys' fees should be denied.

If the Court decides that the Debtor prevailed in part, its fees should be limited solely to those arising from the issues on which it prevailed and the Court must award FOA the attorneys' fees it incurred with respect to the claims on which it prevailed. In applying the definition of a

“prevailing party,” the Court must either conclude that there was no overall prevailing party – and neither side is entitled to attorneys’ fees – or that there was a “split decision” with each side prevailing in part. In the later circumstance, the Court should award both parties their fees with respect to the issues on which they prevailed, deny fees on the issues which the party lost and determine a final number. This difficult process argues in favor of the Court deciding that there was no overall prevailing party.

III. In The Alternative The Court Should Stay Any Decision Regarding Debtor’s Claim For Attorneys’ Fees Pending The Results Of The Appeal.

In the alternative, the Court should stay any decision regarding an award of attorneys’ fees until such time as the appeal with respect to the Claim Objection has been decided by the District Court. That appeal has been stayed for almost a year now as a result of the mediation ordered by this Court. It would be unfair to allow the Debtor to continue to pursue claims against FOA while at the same time FOA is precluded from vindicating its rights on appeal with respect to the Claim Objection. It would be patently inequitable to allow the Debtor to obtain an award of attorneys’ fees and attempt to collect those fees while FOA is prevented from pursuing an appeal to determine whether the decision to disallow its claim will stand. Additionally, it is in the interest of judicial economy for the Court to stay any decision with respect to the request for attorneys’ fees until the appeal is decided. No purpose is served by the parties or this Court expending time and resources to consider a claim that may be obviated by the decision of the District Court. For these reasons, if the Court believes that the Debtor may be entitled to an award of attorneys’ fees, such award should not be made until determination of the appeal pending with the District Court.

IV. Any Fees Relating To The Cross Motions For Summary Judgment Should Not Be Awarded.

As discussed above, FOA and the Debtor filed cross motions for summary judgment with respect to various claims asserted by the debtor in its Claim Objection. The Debtor filed a motion for summary judgment asking the Court to determine that the corrective assessments were improper and illegal retroactive assessments. FOA asked the Court to dismiss Sections V, V-B, VII-A and VII-C from the Claim Objection. The Court granted FOA's motion for partial summary judgment and denied the Debtor's motion for summary judgment in its entirety. There was significant briefing and multiple hearings with respect to the cross motions for summary judgment. A review of the invoices submitted by the debtor in its Supplement shows that \$59,085.50 of the Debtor's attorneys' fees relate to the cross motions for summary judgment. *See* Exhibit 4 which highlights in orange the entries in the invoices submitted by the Debtor that relate to the cross motions for summary judgment. The Debtor is not entitled to recover any of those fees.

In *Ulloa v. QSP, Inc.*, 271 Va. 72, 82, 624 S.E.2d 43, 49 (2006), the Virginia Supreme Court, in discussing an award of attorneys' fees held: "We have stated that under contractual provisions such as these a party is not entitled to recover fees for work performed on unsuccessful claims." The Debtor asserted numerous unsuccessful claims in its Claim Objection that were the subject of the cross motions for summary judgment. Because the Debtor was not successful with respect to those claims, it is not be entitled to any attorneys' fees relating to the cross motions for summary judgment.⁷

⁷ Of course, it is FOA's position that, since there was a split of decisions regarding the various claims in the Claim Objection, there is no prevailing party to whom any fees should be awarded.

V. Miscellaneous Fees That Should Be Excluded

In reviewing the invoices submitted by the Debtor in support of its claim for an award of attorneys' fees, there were numerous entries that refer to activities unrelated to the Claim Objection and/or that had a deficient narrative such that it could not be determined whether the fees claimed relate to the Claim Objection. Those time entries are identified in Exhibit 4 and are highlighted in green. If the Court is inclined to award any attorneys' fees to the Debtor, this amount should be deducted from any award.

VI. The Debtor's Request For \$82,960 In Fees Relating To Its Alleged Settlement Efforts Is Baseless And Should Be Rejected.

Giving new definition to the phrase "overreaching," the Debtor, without citing any authority, asks this Court to award it \$82,960 in attorneys' fees relating to its alleged efforts to come to a global settlement with FOA. Even if the Court finds that the Debtor has a claim under Va. Code § 55-79.53A, that code section limits the recovery of reasonable attorneys' fees to those expended in the underlying litigation. Whatever fees the Debtor allegedly expended in its efforts to reach a global settlement – all of which would have been incurred *after* the Court issued its Order on August 23, 2012 regarding the Claim Objection – are not fees related to the prosecution of the Claim Objection. There is simply no basis – and the Debtor points to none – for the Debtor's claim that it should be awarded \$82,960 for attorneys' fees unrelated to the prosecution of its Claim Objection. This claim is frivolous and should be denied.

CONCLUSION

For the reasons set forth above, the Debtor's claim for attorneys' fees should be denied in its entirety. In the alternative, the attorneys' fees awarded should not include any fees relating to the issues lost by the Debtor, any fees that the Debtor has not shown arise solely from its Claim Objection or any fees relating to the Debtor's alleged settlement efforts. Further, the Court

should off-set any fees awarded to the debtor by the amount of fees incurred by FOA with respect to the issues and claims on which FOA prevailed.

Dated: September 16, 2013

Respectfully submitted,

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Certificate of Service

I certify that this Response was served electronically on September 16, 2013, upon all registered users in this case pursuant to this Court's CM/ECF procedures.

/s/ Alison R.W. Toepp
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VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

GORDON PROPERTIES, LLC,
a Virginia Limited Liability Company
1650 Tysons Boulevard, Suite 700
McLean, Virginia 22102

Plaintiff,

v.

FIRST OWNERS' ASSOCIATION OF
FORTY SIX HUNDRED CONDOMINIUM, INC.,
A Virginia Non-Stock Corporation
Serve: Dewanda F. Cuadros
4600 Duke Street, Unit #411
Alexandria, Virginia 22304
Registered Agent

and

BOARD OF DIRECTORS OF THE FIRST
OWNERS' ASSOCIATION OF FORTY SIX
HUNDRED CONDOMINIUM, INC.,

DEWANDA F. CUADROS,
in her capacity as
Member of the Board of Directors
4600 Duke Street, Unit #910
Alexandria, Virginia 22304

and

BETTY S. GILLIAM,
in her capacity as
Member of the Board of Directors
4600 Duke Street, Unit #619
Alexandria, Virginia 22304

and

JANE BRUNGART
in her capacity as
Member of the Board of Directors
4600 Duke Street, Unit #915

Civil Case No. C108071432



Alexandria, Virginia 22304

and

ELIZABETH MOORE
in her capacity as
Member of the Board of Directors
4600 Duke Street, Unit #411
Alexandria, Virginia 22304

and

Dr. F. J. PEPPER
in his capacity as
Member of the Board of Directors
4600 Duke Street, Unit #932
Alexandria, Virginia 22304

and

ARMANDO FIGUEROA
in his capacity as
Member of the Board of Directors
4600 Duke Street, Unit #1010
Alexandria, Virginia 22304

and

ALEXANDRA RONCAL
in her capacity as
Member of the Board of Directors
4600 Duke Street, Unit #1109
Alexandria, Virginia 22304

Defendants.

VERIFIED COMPLAINT

This is an action for equitable and other relief brought by Gordon Properties LLC, pursuant to Va. Code Ann. § 55-79.53.A and common law, against the Defendants for non-compliance with the Condominium Act and relevant condominium instruments as set forth below:

FILED
CLERK OF COURT
CITY OF ALEXANDRIA
FEB 20 1 02 PM '08
EDWARD SEMONIAN, CLERK
BY DEPUTY CLERK

The Parties

1. Forty Six Hundred Condominium (the “Condominium”) is a mixed-use high rise condominium project located on Duke Street in Alexandria, Virginia. It consists of one sixteen-story multi-family structure containing Residential and Commercial condominium Units and two Street-Front Commercial Units.
2. The Condominium was established by a Declaration, recorded on November 16, 1975, in Deed Book 811, Pages 317, *et seq.*, among the land records of the City of Alexandria, Virginia.
3. A true and accurate copy of the Declaration as recorded among the land records, with Exhibits and Amendments is attached hereto as Exhibit 1.
4. Section XV of the Declaration states that the “[a]dministration of the Condominium Project shall be vested in the Owners’ Association in accordance with this Declaration, the By-Laws, Exhibits and amendments thereto. The Owners’ Association shall consist of all Unit Owners in Accordance with the By-Laws attached hereto as Exhibit E and made a part hereof.”
5. A true and accurate copy of the By-Laws as recorded among the land records is attached to the Declaration as Exhibit E. See Exhibit 1 at Deed Book 811, Pages 419-451.
6. Defendant First Owners' Association of Forty Six Hundred Condominium, Inc. (“FOA”) is a Virginia Non-Stock Corporation, incorporated on May 17, 1977, to serve as the “Owners’ Association” required by the Declaration and By-Laws of the Condominium.
7. Defendant Board of Directors of the First Owners’ Association of Forty Six Hundred Condominium, Inc. (the “Board”) is the Board of Directors required by Va. Code Ann. §13.1-853.A and Article V, Section 1 of the By-Laws.

8. Article V, Section 3 of the Bylaws establishes and delimits the Board's powers and duties as the executive organ of the FOA.
9. Defendant Dewanda F. Cuadros ("Cuadros") is a Member of the Board of Directors and a Unit owner and resident of Virginia.
10. Defendant Betty S. Gilliam ("Gilliam") is a Member of the Board of Directors and a Unit owner and a resident of Virginia.
11. Defendant Jane Brungart ("Brungart") is a Member of the Board of Directors and a Unit owner and a resident of Virginia.
12. Defendant Elizabeth Moore ("Moore") is a Member of the Board of Directors and a Unit owner and a resident of Virginia.
13. Defendant Dr. F. J. Pepper ("Pepper") is a Member of the Board of Directors and a Unit owner and a resident of Virginia.
14. Defendant Armando Figueroa ("Figueroa") is a Member of the Board of Directors and a Unit owner and a resident of Virginia.
15. Defendant Alexandra Roncal ("Roncal") is a Member of the Board of Directors and a Unit owner and a resident of Virginia.
16. Plaintiff Gordon Properties, LLC, ("Gordon Properties") is a Virginia Limited Liability Company which owns forty two (42) Condominium Units as that term is defined in the Declaration and By-Laws.
17. Plaintiff Gordon Properties is a Unit owner and a member of the FOA with all rights and privileges of membership created by applicable law of the Commonwealth, the By-Laws of the Corporation and the Condominium instruments.

Venue

18. This court is the proper venue for this action pursuant to Va. Code Ann. §8.01-261.15.C (proceedings to award an injunction); §8.01-262.1-4 (permissible venue) and § 13.1-909.C (Judicial dissolution).

The Condominium Units and Common Elements

19. Pursuant to the Condominium Declaration, a "Unit" is a portion of the Condominium designed and intended for individual ownership and use.
20. As defined by the Declaration, a "Condominium Unit" consists of a Unit together with the undivided interest in the General and Limited Common Elements.
21. The Condominium consists of three (3) types of condominium Units: "Commercial Units", "Residential Units" and "Street-Front Commercial Units".
22. "Commercial Units" are Units located on either the third or fourth floor of the Condominium Building.
23. "Residential Units" are Units located on the fifth through sixteenth floors of the Condominium Building.
24. "Street-Front Commercial Units" are those Units fronting Duke Street as set forth in Exhibit B to the Declaration. See Exhibit 1 at Deed Book 811, Pages 361-362. There are two (2) such Street-Front Commercial Units, presently consisting of a restaurant site and a gas station site.
25. Gordon Properties owns seven (7) "Residential Units", thirty four (34) "Commercial Units" and one (1) "Street-Front Commercial Unit" (the restaurant site).
26. The FOA Declaration identifies six (6) types of common elements: "Parking Garage Limited Common Elements", "Storage Area Limited Common Elements", "Residential

Limited Common Elements", "Commercial Limited Common Elements", "Residential/Commercial Limited Common Elements", and "General Common Elements."

27. "Parking Garage Limited Common Elements" are expressly defined in the Declaration as the parking garage and the ramps giving access thereto. Trash rooms, storage rooms, electrical and mechanical rooms, stairways, elevator shafts and utility lines are expressly excluded from the definition of Parking Garage Limited Common Elements.
28. Responsibility for maintenance and operation of the Parking Garage Limited Common Elements is shared by the owners of the Condominium Units to which each of the parking spaces is assigned.
29. "Storage Area Limited Common Elements" are expressly defined in the Declaration as the storage area and hallway giving access thereto as particularly described and designated in Exhibit C to the Declaration. Trash rooms, electrical and mechanical rooms, stairways, elevator shafts, utility lines and storage rooms not specifically assigned by Exhibit C to the Declaration are expressly excluded from the definition of Storage Area Limited Common Elements.
30. Responsibility for maintenance and operation of the Storage Area Limited Common Elements is shared by each Residential and Commercial Unit owner so long as they remain the owner of the storage space assigned to them.
31. "Residential Limited Common Elements" are expressly defined in the Declaration as the elevators, elevator shafts and all equipment comprising the operation of the elevators not including the freight elevator, as well as the halls, storage rooms, laundry rooms, mechanical rooms, carpets, light fixtures, trash disposal rooms, and all other components

on the interior structure of the Building which constitutes the fifth through sixteenth floors, not including the Units on those floors.

32. The Residential Units owners, defined as the owners of Units on the fifth through sixteenth floors, bear responsibility for the maintenance and operation of the Residential Limited Common Elements as allocated in Table C of Exhibit D of the Declaration.
33. "Commercial Limited Common Elements" are expressly defined in the Declaration as the parking designated in Exhibit C to the Declaration, the halls, storage rooms, laundry rooms, mechanical rooms, carpets, light fixtures, trash disposal rooms, and all other components of the interior structure of the Building which constitute the third and fourth floors, excluding the Units.
34. The Commercial Unit owners, defined as the owners of Units on the third and fourth floors of the Building, bear responsibility for maintenance and operation of the Commercial Limited Common Elements as set forth in Table D of Exhibit D to the Declaration.
35. "Residential/Commercial Limited Common Elements" are expressly defined in the Declaration as all improvements to the Condominium Project except improvements to the Street-Front Commercial Units and improvements designated as a residential, commercial, parking garage or storage area limited common elements.

Residential/Commercial Limited Common Elements include the pool area and bathhouse, the freight elevator, the health spa, sauna rooms and structural components of the Building.
36. The owners of Residential and Commercial Units bear responsibility for maintenance and operation of the Residential/Commercial Limited Common Elements as allocated in Table B of Exhibit D to the Declaration.

37. "General Common Elements" are expressly defined in the Declaration as all portions of the Condominium Project not described as a Limited Common Element or set out in Exhibit C to the Declaration. The ground upon which the Building and all other improvements rest is the only General Common Element.
38. Gordon Properties owns 14 parking spaces and an unknown number of storage spaces that have been assigned to its units.
39. An amendment to the Declaration recorded among the land records of the City of Alexandria, Virginia, converted seven (7) convertible spaces in the Condominium to Residential/Commercial Limited Common Elements (single-user). See Exhibit 1 at Deed Book 883, Pages 761-779.
40. Gordon Properties owns seven (7) Residential/Commercial Limited Common Elements (single user) (known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1) which have been assigned to one of Gordon Properties' units.

The Defendants Refuse to Designate and Allocate
Reserves for Replacement of the General or Limited Common
Elements in Accordance with the By-Laws.

41. Article IX, Section 3 of the By-Laws mandates the establishment of reserve funds for replacement and requires that "[s]uch reserve shall be designated as applicable to one of the General or Limited Common Elements set out as a separate category in the Declaration and shall be drawn from Assessments on the Units to which the particular Common Element is appurtenant."
42. Article IX, Section 3 of the By-Laws further provides that "[t]he amounts required to be allocated to the reserve for replacements shall be considered an appurtenance of the Unit from which the Assessment was drawn and shall not be separately withdrawn, assigned

or transferred or otherwise separated from the Unit to which it appertains and shall be deemed to be transferred with such Unit.”

43. The Board of the FOA refuses to comply with the By-Laws in assessing, collecting, allocating, accounting for and dispersing reserve funds.
44. The Board of the FOA accounts for all Assessments for reserves as part of a single, indivisible fund in which the replacement reserve funds allocable to each Unit have been impermissibly commingled.
45. In violation of Article IX, Section 3 of the By-Laws, the Board of the FOA refuses to establish or designate replacement reserves as allocable to the General or Limited Common Elements to which they are appurtenant.
46. In recent years, the Board of the FOA expended reserve funds on parking garage repairs that it drew from the impermissibly commingled reserve funds.
47. More recently, the Board of the FOA expended substantial reserve funds on elevator repairs that it drew from the impermissibly commingled reserve funds.
48. The Board’s misconduct is causing a continuous and ongoing injury to Gordon Properties’ property rights in the separate replacement reserve funds appurtenant to its Units.
49. As a result of the Board’s refusal to comply with the By-Laws and its improper commingling of reserve funds it is impossible at this time to accurately determine the amount of Assessments for replacement reserves paid by Gordon Properties that have been withdrawn, transferred or otherwise separated by the Defendants from the Units to which those funds are appurtenant.
50. Gordon Properties is entitled to a complete accounting from the Defendants of the collection and disbursements of Assessments appurtenant to the Units owned by Gordon

Properties and to restitution and replacement of all unauthorized withdrawals, transfers, or distributions of those revenues.

The Defendants Assess Gordon Properties'
Street-Front Commercial Unit Without Any Authority to Do So.

51. Article IX, Section 1 of the By-Laws authorizes Assessments for Common Expenses only against each "Residential and Commercial member."
52. Section V.B of the Declaration further provides that "each Residential and Commercial Unit Owner shall share in the expense and maintenance of the Limited Common Elements (multiple users)."
53. The condominium instruments do not authorize the Defendants to assess Gordon Properties as the owner of a "Street-Front Commercial Unit" for Common Expenses.
54. Pursuant to Article VIII, Section 3 of the By-Laws, the FOA is under no obligation to maintain the Street-Front Commercial Units, those Units do not have any right to use the Limited Common Elements of the Condominium and no Limited Common Elements are appurtenant to the "Street-Front Commercial Units."
55. All Assessments imposed by the Board of the FOA on the Street-Front Commercial Units are *ultra vires*, unauthorized and void.
56. Upon information and belief the Board of the FOA has approved a budget for 2008 based on a projected Assessment of \$25,000 on the Street-Front Commercial Unit owned by Gordon Properties.
57. In prior years, the Board of the FOA has assessed and collected maintenance expenses from Gordon Properties, as owner of a Street-Front Commercial Unit, of approximately \$5,000 per year without authority.

58. Gordon Properties is entitled to an accounting and restitution of all unauthorized Assessments and a permanent injunction against the currently threatened Assessment for 2008 as well as any future assessment of its Street-Front Commercial Unit.

The Defendants Refuse to Assess Common Expenses Among the Residential and Commercial Units in Accordance with the Declaration and Bylaws.

59. Article IX, Section 1 of the By-Laws provides that the FOA's annual expenses known as "Common Expenses" are to be funded by Assessments imposed upon "[e]ach Residential and Commercial member."
60. That section provides that "Assessments shall be based on percentages of responsibility set forth in Exhibit D to the Declaration".
61. Exhibit D to the Declaration contains four different sets of percentages: "percentage of ownership" of Common Elements; "percentage of responsibility" in Residential-Commercial Limited Common Elements; "percentage of responsibility" in Residential Limited Common Elements; and "percentage of responsibility" in Commercial Limited Common Elements. See Exhibit 1 at Deed Book 811, Pages 414-418.
62. In violation of the Declaration and By-Laws the Board of the FOA has repeatedly refused to assess the Residential and Commercial Units based on the percentages of responsibility established in Exhibit D to the Declaration and Amendments thereto.
63. Instead, the Board of the FOA has based Assessments on percentages made up by its former on-site property manager Steve O'Bannon ("O'Bannon method") and/or other methods that do not comply with the Declaration.
64. The Board of the FOA used the impermissible and unauthorized "O'Bannon method" of Assessment for calendar years 2006 and 2007.

65. Upon information and belief, in calendar year 2005 and earlier, the Board improperly based Assessments upon the "percentages of ownership" rather than the "percentages of responsibility".
66. Upon information and belief, for calendar year 2008, the Board based the Assessments upon the "percentages of responsibility" as required by the Declaration, but improperly allocated certain expenses to various Limited Common Elements.
67. The unauthorized, impermissible and *ultra vires* Assessments by the Board of the FOA have caused and are causing a continuous and ongoing injury to the property rights of Gordon Properties.
68. Gordon Properties is entitled to an accounting of Assessments; restitution of all unauthorized, impermissible, and *ultra vires* Assessments; and a permanent injunction against the currently threatened Assessment for 2008 as well as any future Assessment using unauthorized percentages or expense allocations.

The Defendants Improperly Assess Gordon Properties' Storage Areas
and then Divert the Income for Other Purposes.

69. Section 55-79.83.A of the Condominium Act provides in part as follows: "Except to the extent that the condominium instruments provide otherwise, any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of any limited common element shall be specially assessed against the condominium unit to which that limited common element was assigned at the time such expenses were made or incurred."
70. The condominium instruments of the Condominium do not provide for the assessment of the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1.

71. The condominium instruments do not authorize the Defendants to assess Gordon Properties as the owner of Residential/Commercial Limited Common Elements (single user) for Common Expenses.
72. In violation of the Condominium Act and the condominium instruments, the Board of the FOA assesses the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 on a square-footage basis without regard to and far in excess of any actual or projected expenses associated with the maintenance, repair, renovation, restoration, or replacement of those limited common elements.
73. The Board of the FOA improperly accounts for the income from the assessments on the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 as "rental" income.
74. The Board of the FOA impermissibly commingles the income from the assessments on the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 with its general operating funds and uses it to artificially lower the assessments on Residential and Commercial Units.
75. The total assessment on the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 has ranged from \$12,000 per year in 1978 to more than \$21,000 per year in 2007.
76. The FOA has indicated that it intends to assess Gordon Properties approximately \$63,000.00 for the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 in 2008.

77. All Assessments imposed by the Board of the FOA on the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 in excess of any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of those limited common elements are *ultra vires*, unauthorized, and void.
78. The unauthorized, impermissible and *ultra vires* Assessments by the Board of the FOA have caused and are causing a continuous and ongoing injury to the property rights of Gordon Properties.
79. Gordon Properties is entitled to an accounting of all Assessments; restitution in the amount of all unauthorized, impermissible, and *ultra vires* Assessments; and a permanent injunction against the currently threatened Assessment for 2008 as well as any future assessment in excess of any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of the Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1.

The Defendants Charge Gordon Properties Rent on a Storage Bin
that Gordon Properties has Never Rented.

80. The multi-family structure that is part of the Condominium contains a number of storage bins on floors 5-16 that the FOA rents to occupants of the Residential Units.
81. Gordon Properties has never rented a storage bin.
82. Gordon Properties recently became aware that the Board of the FOA has been charging Gordon Properties rent for a storage bin on the 13th floor.
83. The FOA has disguised this rental fee, calling it an "ISF" fee with no further explanation.
84. In calendar year 2003 the Board charged Gordon Properties \$59.57 per month for use of a large storage bin that Gordon Properties had not rented.

85. In calendar year 2004 the Board charged Gordon Properties \$66.89 per month for use of a large storage bin that Gordon Properties had not rented.
86. In calendar years 2005 and 2006 the Board charged Gordon Properties \$73.58 per month for use of a large storage bin that Gordon Properties had not rented.
87. Since November 2002 Gordon Properties has mistakenly paid approximately forty-three hundred dollars (\$4,300.00) for use of a storage bin that it does not rent and has never requested the use of.
88. Gordon Properties paid the charges demanded by the FOA by mistake and without knowledge of the fact that it was paying for a storage bin on the thirteenth floor that it was not using and that it never actually rented.
89. Gordon Properties is entitled to restitution of all charges the FOA improperly charged to it without authority and which Gordon Properties paid by mistake.

The Defendants Improperly Suspend Gordon Properties' Voting Rights
and Right to Use Other Services Available to Members of the FOA.

90. On or about January 28, 2008, the FOA delivered a letter to Gordon Properties in which it claims that Gordon Properties is delinquent in its assessments in the amount of "\$93,629.28 (excluding ISF and interest)".
91. The letter from the FOA further states that as a result of the alleged delinquency, none of the Gordon Properties units would be permitted to vote at the reconvening of the 2007 annual meeting on January 28, 2008.
92. On or about February 14, 2008, the FOA notified Gordon Properties that, as a result of the alleged delinquency, Gordon Properties was ineligible to use the in-unit services program offered to members of the FOA.

93. The FOA did not hold a hearing as required by Section 55-79.80:2.B of the Condominium Act.
94. Contrary to the assertions of the FOA, Gordon Properties is not delinquent in its assessment payments and, therefore, suspension of Gordon Properties' voting rights and other services available to members of the FOA is unauthorized and improper.
95. Gordon Properties has paid all assessments and fees that the FOA has levied against it.
96. At all relevant times, Gordon Properties has relied upon representations by the FOA that such assessments and fees were proper and authorized.
97. Gordon Properties made the payments under a mistake of fact and based upon misrepresentations by the Board of the FOA.

Count I

(Non-Compliance with Condominium Act and Condominium Instruments)

98. The allegations of paragraphs 1 through 97 are incorporated herein by reference.
99. Defendants Cuadros, Gilliam, Brungart, Moore, Pepper, Figueroa and Roncal are Unit owners and Board Members who, individually, and collectively acting as the Board of Directors, must comply with all lawful provisions of Title 55, Chapter 4.2 of the Code of Virginia and all provisions of the condominium instruments pursuant to Va. Code Ann. § 55.79-53.A and Article V, Section 3(g) of the By-Laws.
100. Gordon Properties has standing to sue because it is an aggrieved Unit owner as defined in Va. Code Ann. § 55.79-53.A and because the Board of the FOA has failed or refused to require compliance with provisions of the Virginia Condominium Act and the condominium instruments which create rights held individually by Gordon Properties and rights held in common by all Unit owners.

101. As alleged in paragraphs 41-50 above, the Defendants' refuse to comply with Article IX, Section 3 of the By-Laws and such refusal is causing a continuous and ongoing injury to Gordon Properties which has a property interest in the creation, designation, allocation and withdrawal of reserves for the replacement of the Limited Common Elements appurtenant to its Units.
102. As further alleged above in paragraphs 51-58, the Defendants' Assessment and collection of maintenance expenses from Gordon Properties, as owner of a Street-Front Commercial Unit, is unauthorized, ultra vires, and void, because it violates both Article IX, Section 1 of the By-Laws and Section V.B of the Declaration.
103. As further alleged above in paragraphs 59-68 the Defendants refuse to Assess Common Expenses based on the percentages of responsibility set forth in Exhibit D to the Declaration as required by Article IX, Section 1(c) of the By-Laws. Instead, the Defendants used the impermissible and unauthorized "O'Bannon method" which over-assessed the Residential and Commercial Units owned by Gordon Properties in an amount to be determined in this action.
104. As further alleged above in paragraphs 69-79 the Defendants' assessment of the seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 on a square-footage basis without regard to and far in excess of any actual or projected expenses associated with the maintenance, repair, renovation, restoration, or replacement of those limited common elements is unreasonable, unauthorized, ultra vires and void because it violates Section 55-79.83 of the Condominium Act.

105. The Defendants' lack of compliance with the Condominium Act and the condominium instruments is grounds for this action to recover sums due, for injunctive relief, for specific performance, and any for other remedy in law or in equity that this Court deems appropriate.

Wherefore, Plaintiff Gordon Properties respectfully requests the following relief:

(a) Preliminary and permanent injunctions requiring the Defendants to comply with the Condominium Act and condominium instruments and specifically prohibiting the Defendants from Assessing Gordon Properties based upon Assessment values calculated using the improper "O'Bannon Method" (or any method other than the method set forth in the Condominium instruments), prohibiting the Defendants from using reserve funds appurtenant to Gordon Properties' Units for replacement of General or Limited Common Elements other than those to which Gordon Properties' Units are appurtenant; prohibiting the Defendants from assessing Gordon Properties for the seven Residential/Commercial Limited Common Elements (single-user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 in excess of any common expenses associated with the maintenance, repair, renovation, restoration, or replacement of those Residential/Commercial Limited Common Elements; prohibiting the Defendants from collecting maintenance Assessments from Gordon Properties as owner of a Street-Front Commercial Unit; and requiring the FOA to reimburse Gordon Properties for all improper and unauthorized assessments paid by it; and

(b) For a Decree of Specific Performance, requiring the FOA to prepare a new budget for 2008 that calculates Assessments based on the percentages of responsibility set forth in Exhibit D to the Declaration, as amended; and

(c) for an award of prevailing party attorney's fees to Gordon Properties and against the Defendants pursuant to Va. Code Ann. § 55-79.53.A.; and

(d) for such other and further relief as the Court deems just.

Count II

(Ultra Vires Conduct)

106. The allegations of fact in paragraphs 1-97 are incorporated herein by reference.

107. The FOA is a Virginia Non-Stock Corporation.

108. Gordon Properties is a member of the FOA.

109. The FOA lacks the authority to take the actions challenged in this lawsuit including:

(a) Calculating and levying Assessments not based upon the percentages of responsibility set forth in Exhibit D to the Declaration, as amended and improperly allocating certain expenses to the various general and limited common elements; and

(b) Assessing Gordon Properties' seven Residential/Commercial Limited Common Elements (single user) known as Storage Areas 1B1, 1B2, 1C1, 1C2, 2B1, 2B2, and 2C1 on a square-footage basis without regard to and far in excess of any actual or projected expenses associated with the maintenance, repair, renovation, restoration, or replacement of those limited common elements;

(c) Using replacement reserves appurtenant to Gordon Properties' Units in order to replace General and/or Limited Common Elements that are not appurtenant to Gordon Properties' Units; and

(d) Assessing Gordon Properties' Street-Front Commercial Unit.

110. Gordon Properties has standing to seek an injunction against the foregoing *ultra vires* acts pursuant to Va. Code. Ann. § 13.1-828.B.

Wherefore, Plaintiff Gordon Properties, LLC respectfully requests entry of preliminary and permanent injunctions pursuant to Va. Code Ann. § 13.1-828.C prohibiting the FOA, by and through its Board, from taking the unauthorized *ultra vires* actions set forth above; and for such other and further relief as the court deems just.

Count III

(Accounting and Constructive Trust)

111. The allegations in paragraphs 1-97 are incorporated herein by reference.
112. The defendants have intentionally and recklessly commingled the reserve funds allocable to the Limited Common Elements appurtenant to the Units owned by Gordon Properties with the reserve funds allocable to the Limited Common Elements appurtenant to Units owned by others.
113. The commingling of reserve account funds is unauthorized and wrongful.
114. Gordon Properties is entitled to obtain a full accounting of all reserve account funds, to reimbursement of the reserve account funds properly allocable to the Limited Common Elements appurtenant to Gordon Properties' Units that have been improperly commingled, and to imposition of a constructive trust upon the commingled funds to secure its claim for reimbursement.

Wherefore, Plaintiff Gordon Properties respectfully requests entry of a decree ordering the FOA, by and through its Board, to prepare an accounting of the reserve funds allocable to the Limited Common Elements appurtenant to Units owned by Gordon Properties, imposing a constructive trust upon the commingled funds to secure Gordon Properties' claim for reimbursement, and such other and further relief as the court deems just.

Count IV

(Unjust Enrichment)

115. The allegations in paragraphs 1-97 are incorporated herein by reference.
116. For many years the FOA has been charging and demanding rent on a thirteenth-floor storage bin that Gordon Properties has never rented.
117. The FOA has disguised this rent as an "ISF" fee on its books.
118. Gordon Properties paid the "ISF" fee to the FOA based upon a mistaken understanding of the nature of such charges and the Board's authority to impose them.
119. At the time that Gordon Properties mistakenly paid the charges to the FOA, it owed no money to the FOA for any "ISF" fees or rent on a thirteenth-floor storage bin.
120. The FOA has never had any right to receive rental payments from Gordon Properties for a thirteenth-floor storage bin.
121. The FOA nonetheless accepted payment of rent from Gordon Properties for a thirteenth-floor storage bin.
122. The FOA has been unjustly enriched by Gordon Properties' payment of "ISF" fees or rent on a thirteenth-floor storage bin.
123. Wherefore, Plaintiff Gordon Properties LLC respectfully requests entry of a decree of restitution directing the FOA to pay to Gordon Properties, LLC, the sum of FOUR THOUSAND THREE HUNDRED DOLLARS AND NO CENTS (\$4,300.00) or such greater or lesser amount as may be proven at trial, and for such other and further relief as the court deems just.

Count V

(Judicial Dissolution of the FOA)

124. The allegations in paragraphs 1-123 are incorporated herein by reference.
125. The Defendant Directors are in control of the FOA and have acted, are acting and will act in a manner that is illegal, oppressive or fraudulent as set forth above.
126. This court may dissolve the FOA under these circumstances pursuant to Va. Code Ann. § 13.1-909.A.1.b.
127. The court also may issue injunctions, appoint a receiver or custodian *pendente lite* and take other actions required to preserve the corporate assets and carry on the business of the FOA until a full hearing can be held.

Wherefore, Plaintiff Gordon Properties respectfully requests entry of a decree of dissolution, dissolving the FOA, and awarding such other and further relief as the court deems just in order to ensure the prompt and orderly dissolution of the FOA.

COUNT VI

(Declaratory Judgment)

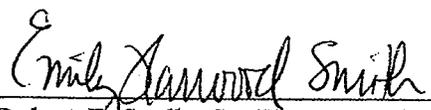
109. The allegations in paragraphs 1-97 are incorporated herein by reference.
110. This is a claim for declaratory relief pursuant to Va. Code Ann. § 8.01-184, *et seq.*
111. The statements in the FOA letter of January 28, 2008, and the notice of February 14, 2008 constitute an antagonistic assertion and a denial of Gordon Properties' voting rights and right to use services available to other members of the FOA.
116. This Court has the authority to make a binding adjudication of right in this actual controversy regarding Gordon Properties' payment of assessments and its rights as a Unit owner.

117. Gordon Properties is entitled to a finding that it is current on all proper assessments charged against it as a Unit owner and member of the FOA and, therefore, that it is entitled to exercise its statutory right to vote at all duly called meetings of the FOA and to use any and all services made available to members of the FOA.

WHEREFORE, Plaintiff Gordon Properties respectfully requests entry of a declaratory judgment which finds that it has paid all proper assessments charged to it and that it is entitled to exercise all of its rights as a Unit owner and member of the FOA.

Gordon Properties, LLC,

By: 
BRYAN SELLS,
MANAGING MEMBER

By: 
Robert H. Scully, Jr. (VSB 19218)
Emily Harwood Smith (VSB 65527)
STITES & HARBISON, PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314
Telephone: (703) 739-4900
Facsimile: (703) 739-9577
rscully@stites.com
ehsmith@stites.com
Counsel to Gordon Properties, LLC

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

GORDON PROPERTIES, LLC,)	
)	
Plaintiff,)	
)	
v.)	Civil No. <u>CL08001432</u>
)	
FIRST OWNERS' ASSOCIATION OF)	
FORTY SIX HUNDRED)	
CONDOMINIUM, INC., <i>et. al.</i> ,)	
)	
Defendants.)	

ORDER

This matter came before the Court on the Demurrers of the Defendants the First Owners' Association of Forty Six Hundred Condominium, Inc. ("First Owners' Association") the Board of Directors of the First Owners' Association of Forty Six Hundred Condominium, Inc. (the "Board") and Dewanda F. Cuardos, Betty S. Gilliam, Jane Brungart, Elizabeth Moore, Dr. F. J. Pepper, Armando Figueroa, and Alexandra Roncal (the "Individual Defendants"); and

IT APPEARING TO THE COURT based upon the pleadings and the arguments of counsel that the Demurrers should be sustained in part, it is therefore;

ORDERED that the Demurrer of the First Owners' Association and the Board is sustained as to Count I with leave to amend to state a breach of contract claim and it is overruled with respect to Counts IV and V; and it is further

ORDERED that the Demurrer of the Individual Defendants is sustained as to Count I with leave to amend, except that leave to amend is not granted with respect to a claim under Virginia Code section 55-79.53 other than as to claims of non-compliance against the Individual Defendants as Unit Owners, not Board Members, and the Demurrer to the other Counts is taken



under advisement by the Court and will be ruled on by the Court based upon the pleadings
submitted by the parties; and it is further

ORDERED that the Amended Complaint authorized by this Order shall be filed by July 2,
2008.

ENTERED this _____ day of June, 2008.

Judge, Circuit Court of the City of Alexandria

SEEN AND OBJECTED TO for the reasons stated on the record during oral argument and in the
briefs. Gordon Properties LLC specifically asserts the protection of Va. Code Ann. § 8.01-273.B
as to that portion of the Order sustaining the demurrer to Count I of the original Complaint and
asserts its right to "insist upon its original pleading" on any appeal of the case without prejudice
by having made the amendment.

Emily Harwood Smith
Robert E. Scully, Jr. VSB No.: 19218
Emily Harwood Smith VSB No.: 65527
Stites & Harbison, PLLC
1199 North Fairfax Street, Suite 900
Alexandria, Virginia 22314
Phone: 703-739-4900
Fax: 703-739-9577
E-mail: rscully@stites.com
E-mail: ehsmith@stites.com
Counsel for Plaintiff

SEEN AND objected to as to denial of demurrer of the First Owners' Association and the Board
to Counts IV and V for the reasons stated on the record and in the pleadings:

Michael S. Dingman w/permission by E&S
Michael S. Dingman VSB No. 30031
Robert M. Diamond VSB No. 16036
REED SMITH LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, Virginia 22042
703-641-4323
703-641-4340 (fax)
Counsel for Defendants

FILED
CLERK OF COURTS
CITY OF ALEXANDRIA

JUN 18 3 21 PM '08

EDWARD SEHONIAN, CLERK
BY _____
DEPUTY CLERK

**Circuit Court of Alexandria
Virginia**

Judges
DONALD M. HADDOCK
JOHN E. KLOCH (Retired)
LISA BONDAREFF KEMLER



Courthouse
520 King Street
Alexandria, Virginia
22314-3164
(703) 838-4123

March 12, 2008

Mary C. Zinsner, Esquire
Troutman Sanders LLP
1660 International Drive, Suite 600
McLean, VA 22102

Edward P. Trivette, Esquire
Cunningham & Associates, PLC
1600 Wilson Boulevard, Suite 905
Arlington, VA 22209

David S. Mercer, Esquire
Mercer Trigiani
112 South Alfred Street
Alexandria, VA 22314

Michael S. Dingman, Esquire
Robert M. Diamond, Esquire
Reed Smith LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, VA 22042

Re: Gordon Properties, LLC v. Board of Directors of the
First Owners' Association of Forty-Six Hundred
Condominium, Inc., et al.

Dear Counsel:

Plaintiff Gordon Properties, LLC's motion for reconsideration of the Court's ruling on the motion for partial summary judgment filed by the Board of Directors of the First Owners' Association of Forty-Six Hundred Condominium, Inc., is denied on the following grounds.

Virginia Code § 55-79.53 states:

A. The declarant, every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association, or by its executive organ or any managing agent on behalf of such association, or, in any proper case, by one or more aggrieved unit owners on their own behalf or as a class action. A unit owners' association shall have standing to



March 12, 2008

Page 2

Re: Gordon Properties, LLC v. Board of Directors of the
First Owners' Association of Forty Six Hundred Condominium, et al.

sue in its own name for any claims or actions related to the common elements as provided in subsection B of § 55-79.80. The prevailing party shall be entitled to recover reasonable attorneys' fees and costs expended in the matter.

Under the plain meaning of the statutory language, the Board is not named as one of the possible parties defendant; parties defendant are limited to "the declarant, every unit owner, and all those entitled to occupy a unit." The Board is clearly not the declarant. Nor is it entitled to occupy a unit.

Gordon Properties argues, however, that the Board is a unit owner and, on that ground, that it is a proper party defendant under the Act, qualifying Gordon Properties to an award of attorneys' fees if it were to prevail on the merits of the action. A "unit owner" is defined as "one or more persons who own a condominium unit..." Va. Code § 55-79.41. "Person" is defined, inter alia, as an "entity capable of holding title to real property." Id. The Board cannot be deemed a "unit owner," because, although an "entity," the Board does not own a condominium unit. Nor is it authorized to own real property under the Act. By comparison, among the distinctions the statute makes between a "unit owners' association" and its "executive organ" or Board, the power to own real property is expressly granted to the unit owners' association: under the Act, Va. Code § 55-79.80 (A)(4). ("[T]he unit owners' association shall have the power to . . . [a]cquire, hold, convey, and encumber title to real property, including but not limited to condominium units. . .").

In addition, it must be concluded that the legislature's enumeration of specific parties defendant that omits reference to the governing body of the unit owners' association, e.g., the Board or "executive organ" of the association, was intentional. See, *Smith Mountain Lake Yacht Club, Inc. v. Ramaker*, 261 Va. 240 (2001).

Counsel for the Board is requested to draft an Order reflecting the decision of this Court for review and endorsement by all counsel and for submission to the Court for enpy.

Very truly yours,


The Hon. Rosemarie Annunziata (Ret.)

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL: Donald F. King RESPONSIBLE PROFESSIONAL: Donald F. King

*** BILLING NOTES ***
*** BILL WITH BANKRUPTCY STAMP

BILLING MEMO
FEE'S BILL-THRU DATE: September 30, 2010
COSTS BILL-THRU DATE: September 30, 2010
Area of Practice: Bankruptcy - Miscellaneous

ORIGINATING PROFESSIONAL: Donald F. King

UNBILLED TIME (Through 09/30/2010)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
02/02/10	122 DFK	Communicate with Madeline Trainor and Stephanie Hollin re: CSI Schedules	0.20	350.00	70.00	<input type="checkbox"/>					
02/03/10	122 DFK	Review proofs of claim by Stiles and FOA	0.80	350.00	280.00	<input type="checkbox"/>					
02/03/10	122 DFK	Communicate with Client re: FOA claim	0.40	350.00	140.00	<input type="checkbox"/>					
02/03/10	122 DFK	Communicate with Madeline Trainor, Stephanie Hollin, Bryan Sells and Cara Nebeker to coordinate UST IDI and 341 on CSI case	1.30	350.00	455.00	<input type="checkbox"/>					
02/03/10	122 DFK	Communicate with Client re: Rule 2004 Motion, FOA letter to UST, and issues and strategy for CSI Case	0.70	350.00	245.00	<input type="checkbox"/>					
02/03/10	150 RCD	Review and revise fee application.	1.10	175.00	192.50	<input type="checkbox"/>					
02/04/10	122 DFK	Review E-mail from client and respond re: payment of management fee	0.20	350.00	70.00	<input type="checkbox"/>					
02/04/10	122 DFK	Draft E-mail to client re: FOA Claims	0.20	350.00	70.00	<input type="checkbox"/>					

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10/21/2010 1:51:58 PM



BILLING MEMO

FEES BILL-THRU DATE: September 30, 2010

Area of Practice

COSTS BILL-THRU DATE: September 30, 2010 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***

*** BILL WITH BANKRUPTCY STAMP

UNBILLED TIME (Through 09/30/2010)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	M/C	W/O	HLD	TRF	TRF TO
08/11/10	DFK	Draft motion/memorandum to dismiss appeal; research legal issues	4.70	400.00	1,880.00	<input type="checkbox"/>					
08/11/10	DFK	Draft letter to Magistrate Buchanan transmitting pleadings	0.30	400.00	120.00	<input type="checkbox"/>					
08/11/10	DFK	Communicate with Client re objection to FOIA Claim, discuss issues with other owners	0.80	400.00	320.00	<input type="checkbox"/>					
08/12/10	DFK	Communicate with USDC re hearing on FOIA request for expedited briefing schedule	0.20	400.00	80.00	<input type="checkbox"/>					
08/12/10	DFK	Draft E-mail to client transmitting order approving Mercer Trigiani fee application	0.20	400.00	80.00	<input type="checkbox"/>					
08/12/10	DFK	Draft E-mail to client transmitting various pleadings related to FOIA appeal	0.30	400.00	120.00	<input type="checkbox"/>					
08/13/10	DFK	Review Magistrate Buchanan's order re briefing and hearing schedule on FOIA appeal	0.20	400.00	80.00	<input type="checkbox"/>					

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10/21/2010 2:52:53 PM

BILLING MEMO
 FEES BILL-THRU DATE: March 31, 2011
 COSTS BILL-THRU DATE: March 31, 2011

Area of Practice
 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL:
 Donald F. King
 *** BILLING NOTES ***
 BILL WITH BANKRUPTCY STAMP

RESPONSIBLE PROFESSIONAL:
 Donald F. King
ORIGINATING PROFESSIONAL:
 Donald F. King

UNBILLED TIME (through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
01/07/11	DFK	Communicate with Client re: Mercer Trigiani fee application	0.20	400.00	80.00	<input type="checkbox"/>					
01/10/11	DFK	Review reply filed by FOA re: motion to dismiss	0.30	400.00	120.00	<input type="checkbox"/>					
01/10/11	DFK	Review FOA's limited objection to voting agreement; discuss same with client	0.50	400.00	200.00	<input type="checkbox"/>					
01/11/11	DFK	Alder's Court re: hearing on FOA motion to dismiss, status hearing on FOA objection, voting agreement and hearing on Mercer fee application	3.60	400.00	1,440.00	<input type="checkbox"/>					
01/11/11	DFK	Prepare objection to FOA discovery re: claim objections; serve upon FOA counsel	1.70	400.00	680.00	<input type="checkbox"/>					
01/11/11	DFK	Prepare and file certification of service re: discovery to FOA and objections to FOA discovery	0.40	400.00	160.00	<input type="checkbox"/>					
01/12/11	DFK	Review transcript and pleadings from state court action re: claim objection and motion for partial summary judgment	3.30	400.00	1,320.00	<input type="checkbox"/>					

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04/04/2011 12:35:36

BILLING MEMO
FEES BILL-THRU DATE: March 31, 2011
COSTS BILL-THRU DATE: March 31, 2011
Area of Practice
 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11
BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King
ORIGINATING PROFESSIONAL:
 Donald F. King
BILLING NOTES ***
 *** BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP

UNBILLED TIME (through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
01/13/11	DFK	Review FOA motion to dismiss; review pleadings and documents	1.80	400.00	720.00	<input type="checkbox"/>					
01/14/11	DFK	Draft E-mail to client re: FOA claim objection issues and strategy; analyze facts and legal issues	3.20	400.00	1,280.00	<input type="checkbox"/>					
01/17/11	DFK	Analyze case and issues and review pleadings and documents re: FOA claim objection	3.50	400.00	1,400.00	<input type="checkbox"/>					
01/17/11	DFK	Review E-mail from client and respond re: FOA objection to ARC voting agreement	0.30	400.00	120.00	<input type="checkbox"/>					
01/18/11	DFK	Analyze case and issues re: FOA motion to dismiss case; review FOA exhibits	1.70	400.00	680.00	<input type="checkbox"/>					
01/19/11	DFK	Analyze case and issues re: FOA claim objection; FOA motion for partial summary judgment	2.80	400.00	1,120.00	<input type="checkbox"/>					
01/19/11	DFK	Review E-mail from Dingman and respond re: agreed order resolving limited objection to voting agreement	0.20	400.00	80.00	<input type="checkbox"/>					

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BILLING MEMO
CLIENT 52144 Gordon Properties, LLC
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

FEES BILL-THRU DATE: March 31, 2011
COSTS BILL-THRU DATE: March 31, 2011

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***
BILL WITH BANKRUPTCY STAMP
BILL WITH STAMP

UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	M/C	W/O	HLD	TRE	TRE TO
02/04/11	752 SAC	Confer with DFK re: SJ motion	1.90	215.00	408.50	<input type="checkbox"/>					
02/06/11	122 DFK	Review condo instruments and condo act and analyze case and issues re: FOA Claim objection	3.60	400.00	1,440.00	<input type="checkbox"/>					
02/06/11	752 SAC	research and draft outline for SJ re: statute of limitations	2.50	215.00	537.50	<input type="checkbox"/>					
02/07/11	122 DFK	Review draft discovery from client; prepare discovery responses	1.10	400.00	440.00	<input type="checkbox"/>					
02/07/11	122 DFK	Communicate with Scully re: documents	0.20	400.00	80.00	<input type="checkbox"/>					
02/07/11	122 DFK	Analyze case and issues re: FOA motion; for summary judgment and GP cross motion for summary judgment	2.80	400.00	1,120.00	<input type="checkbox"/>					
02/07/11	729 EFS	Review letter from S. Donica; email to B. Sells and R. Mendleson; review file for discovery responses	0.40	295.00	118.00	<input type="checkbox"/>					
02/07/11	752 SAC	Research and prepare SJ argument; confer with DFK re: same	3.70	215.00	795.50	<input type="checkbox"/>					

Odin, Feldman, Pittman, PC

04/04/2011 12:35:41

BILLING MEMO
 FEES BILL THRU DATE: March 31, 2011
 COSTS BILL THRU DATE: March 31, 2011
 Area of Practice
 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11
BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King
ORIGINATING PROFESSIONAL:
 Donald F. King
 *** BILLING NOTES ***
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UNBILLED TIME (through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
02/08/11	122 DFK	Prepare discovery responses to FOA re: claim objection	1.60	400.00	640.00	<input type="checkbox"/>					
02/08/11	122 DFK	Communicate with Opposing Counsel Sarvadi, new counsel for FOA, re: adversary proceeding and PI Motion	0.70	400.00	280.00	<input type="checkbox"/>					
02/08/11	122 DFK	Research legal issues and review state court filings, orders and transcripts re cross motion for summary judgment, prepare opposition to FOA summary judgment motion and Gordon Properties cross motion for summary judgment	6.30	400.00	2,520.00	<input type="checkbox"/>					
02/09/11	122 DFK	Prepare discovery responses re: FOA claim objection, serve responses on Dingman	3.40	400.00	1,360.00	<input type="checkbox"/>					
02/09/11	122 DFK	Analyze case and issues and discuss with client potential conflict issues with LeClair Ryan; email to client	0.80	400.00	320.00	<input type="checkbox"/>					
02/09/11	122 DFK	Research legal issues re opposition to FOA Summary Judgment motion, GP Summary Judgment Motion re Claim	2.50	400.00	1,000.00	<input type="checkbox"/>					

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04/04/2011 12:35:42

BILLING MEMO
 FEES BILL-THRU DATE: March 31, 2011
 COSTS BILL-THRU DATE: March 31, 2011
 Area of Practice
 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144 00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL: Donald F. King
RESPONSIBLE PROFESSIONAL: Donald F. King
ORIGINATING PROFESSIONAL: Donald F. King

*** BILLING NOTES ***
 *** BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP

UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
02/09/11	DFK	objection	2.30	400.00	520.00	<input type="checkbox"/>					
02/09/11	DFK	Prepare opposition to FOA Summary Judgment motion	1.80	400.00	720.00	<input type="checkbox"/>					
02/09/11	DFK	Draft summary judgment motion re claim objection	0.30	400.00	120.00	<input type="checkbox"/>					
02/09/11	DFK	Communicate with Dingman (emails) re: FOA deposition	0.40	400.00	160.00	<input type="checkbox"/>					
02/09/11	DFK	Draft E-mail to Sarvedi re: LeClair Ryan conflict	3.10	215.00	666.50	<input type="checkbox"/>					
02/09/11	SAC	Research re: retroactive assessments for condo associations nationwide in state and federal courts	0.20	400.00	80.00	<input type="checkbox"/>					
02/10/11	DFK	Draft E-mail to Dingman re: interrogatory responses	0.40	400.00	160.00	<input type="checkbox"/>					
02/10/11	DFK	Review E-mail and respond from client re: draft opposition to FOA summary judgment motion	1.70	400.00	680.00	<input type="checkbox"/>					
02/10/11	DFK	Revise opposition to FOA summary				<input type="checkbox"/>					

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04/04/2011 12:35:42

BILLING MEMO
 FEES BILL-THRU DATE: March 31, 2011
 COSTS BILL-THRU DATE: March 31, 2011
 Area of Practice
 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144 00001 Gordon Properties, LLC - Chapter 11
BILLING PROFESSIONAL:
 Donald F. King
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 Donald F. King
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 Donald F. King
 *** BILLING NOTES ***
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UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
02/10/11	DFK	Analyze case and issues and prepare summary judgment motion re: FOA Claim objection	5.20	400.00	2,080.00	<input type="checkbox"/>					
02/10/11	DFK	Review FOA discovery responses; transmit to client	1.10	400.00	440.00	<input type="checkbox"/>					
02/11/11	DFK	Prepare and file opposition to FOA summary judgment motion re: objection to claim	1.80	400.00	720.00	<input type="checkbox"/>					
02/11/11	DFK	Prepare and file motion for summary judgment on FOA claim objection	3.70	400.00	1,480.00	<input type="checkbox"/>					
02/11/11	DFK	Review FOA appeal of denial of motion to dismiss	0.20	400.00	80.00	<input type="checkbox"/>					
02/11/11	DFK	Communicate with Client re: FOA deposition on claim objection	0.20	400.00	80.00	<input type="checkbox"/>					
02/11/11	DFK	Communicate with Opposing Counsel Dingman re: postponing FOA deposition on claim objection pending summary judgment and ruling	0.20	400.00	80.00	<input type="checkbox"/>					

Odin, Feldman, Pittman, PC

04/04/2011 12:35:43

BILLING MEMO
 CLIENT 52144 Gordon Properties, LLC
 FEES BILL-THRU DATE: March 31, 2011
 COSTS BILL-THRU DATE: March 31, 2011

Area of Practice
 Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King

ORIGINATING PROFESSIONAL:
 Donald F. King

*** BILLING NOTES ***
 *** BILL WITH BANKRUPTCY STAMP
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UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO Show	M/C	W/O	HLD	TRF	TRF TO
02/15/11	DFK	Review E-mail from client and respond re: FOA claim	0.30	400.00	120.00	<input type="checkbox"/>					
02/16/11	DFK	Draft motion and order re: borrowing authority	1.40	400.00	560.00	<input type="checkbox"/>					
02/17/11	DFK	Draft motion and order re: borrowing authority; revise note and deed of trust; transmit to client	3.10	400.00	1,240.00	<input type="checkbox"/>					
02/18/11	DFK	Draft E-mail to client re: Corey Brooks	0.20	400.00	80.00	<input type="checkbox"/>					
02/23/11	DFK	Draft E-mail to Dingman re: withdrawal of claim 3-1	0.20	400.00	80.00	<input type="checkbox"/>					
03/01/11	DFK	Draft borrowing motions	1.30	400.00	520.00	<input type="checkbox"/>					
03/01/11	HNL	Preparation of Summons for Unlawful Detainer	0.50	235.00	117.50	<input type="checkbox"/>					
03/02/11	DFK	Draft, file and serve motion and notice of hearing re: borrowing motion	2.70	400.00	1,080.00	<input type="checkbox"/>					

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04/04/2011 12:35:44

BILLING MEMO
 CLIENT 52144 Gordon Properties, LLC
 FEES BILL-THRU DATE: March 31, 2011
 COSTS BILL-THRU DATE: March 31, 2011
 Area of Practice
 Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King
ORIGINATING PROFESSIONAL:
 Donald F. King

*** BILLING NOTES ***
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UNBILLED TIME (through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	M/C	W/O	HLD	TRF	TRF TO
11/09/10	DFK	Attend court re preliminary hearing on claim objection and status on other pending matters	2.80	400.00	1,120.00	<input type="checkbox"/>					
11/09/10	DFK	Meet with Stephen Cobb to discuss 4th Circuit brief	0.40	400.00	160.00	<input type="checkbox"/>					
11/09/10	SAC	Research and prepare outline for brief	2.20	215.00	473.00	<input type="checkbox"/>					
11/10/10	SAC	Review and research	1.20	215.00	258.00	<input type="checkbox"/>					
11/11/10	SAC	Research and draft appellee brief	5.10	215.00	1,096.50	<input type="checkbox"/>					
11/12/10	SAC	Edit and draft appellee brief	2.10	215.00	451.50	<input type="checkbox"/>					
11/14/10	SAC	Draft and Edit Appellee Brief	3.30	215.00	709.50	<input type="checkbox"/>					
11/15/10	DFK	Meet with co-counsel Stephen Cobb re: 4th Circuit brief	0.40	400.00	160.00	<input type="checkbox"/>					
11/15/10	SAC	Edit 4th Circuit Brief	3.50	215.00	752.50	<input type="checkbox"/>					
11/16/10	SAC	Edit 4th Circuit Brief	1.10	215.00	236.50	<input type="checkbox"/>					

04/04/2011 1 05 45 PM

BILLING MEMO

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

FEES BILL-THRU DATE: March 31, 2011

COSTS BILL-THRU DATE: March 31, 2011

Area of Practice
Bankruptcy - Miscellaneous

BILLING PROFESSIONAL: Donald F. King

RESPONSIBLE PROFESSIONAL: Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

*** BILLING NOTES ***

*** BILL WITH BANKRUPTCY STAMP

UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
01/10/11	122 DFK	Review E-mail from Marino and respond re: scheduling issues	0.20	400.00	80.00	<input type="checkbox"/>					
01/14/11	122 DFK	Prepare and file certificate of service of complaint and summons	0.70	400.00	280.00	<input type="checkbox"/>					
01/12/11	122 DFK	Draft 30(b)(6) deposition notice to FOA re: claim objection	3.60	400.00	1,440.00	<input type="checkbox"/>					
01/24/11	122 DFK	Draft document request to FOA re: preliminary injunction	1.70	400.00	680.00	<input type="checkbox"/>					
02/01/11	122 DFK	Draft E-mail to Stephen Cobb re statute of limitations	0.30	400.00	120.00	<input type="checkbox"/>					
02/01/11	122 DFK	Communicate with co-counsel Zupan re statute of limitations	0.40	400.00	160.00	<input type="checkbox"/>					
02/08/11	752 SAC	Research and draft argument section for SOJ brief on SOL	4.00	215.00	860.00	<input type="checkbox"/>					
02/14/11	122 DFK	Analyze case and issues re: FOA appeal of denial of motion to dismiss	0.70	400.00	280.00	<input type="checkbox"/>					

Odin, Feldman, Pittman, PC

04/04/2011 1:05:48 PM

BILLING MEMO
CLIENT 52144 Gordon Properties, LLC
FEES BILL-THRU DATE: March 31, 2011
AREA OF PRACTICE
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11
COSTS BILL-THRU DATE: March 31, 2011
Bankruptcy - Miscellaneous

BILLING PROFESSIONAL: Donald F. King
RESPONSIBLE PROFESSIONAL: Donald F. King
ORIGINATING PROFESSIONAL: Donald F. King

*** **BILLING NOTES** ***
BILL WITH BANKRUPTCY STAMP
BILL WITH STAMP

UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO Show	M/C	W/O	HLD	TRF	TRF TO
02/14/11	DFK	Communicate with Client re: FOA appeal of denial of motion to dismiss	0.30	400.00	120.00	<input type="checkbox"/>					
02/16/11	DFK	Communicate with Opposing Counsel Sarvadi re: adversary proceeding and PI issues and scheduling	0.70	400.00	280.00	<input type="checkbox"/>					
02/16/11	DFK	Draft note and deed of trust re: borrowing motion	2.80	400.00	1,120.00	<input type="checkbox"/>					
02/17/11	DFK	Review E-mail from Sarvadi and respond re: extension of time	0.20	400.00	80.00	<input type="checkbox"/>					
02/21/11	DFK	Review draft stipulation re: extension of time for FOA to respond to adversary proceeding; email to Sarvadi re: same	0.60	400.00	240.00	<input type="checkbox"/>					
02/21/11	DFK	Review E-mail from Sarvadi and respond re: revised stipulation	0.20	400.00	80.00	<input type="checkbox"/>					
02/21/11	DFK	Review FOA opposition to Gordon Properties Summary Judgment motion and FOA reply to Gordon Properties opposition to FOA Summary Judgment motion	0.80	400.00	320.00	<input type="checkbox"/>					

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC FEES BILL-THRU DATE: March 31, 2011 **Area of Practice**

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11 COSTS BILL-THRU DATE: March 31, 2011 **Bankruptcy - Miscellaneous**

BILLING PROFESSIONAL: **RESPONSIBLE PROFESSIONAL:** Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

*** BILLING NOTES ***
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UNBILLED TIME (through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRE	TRE TO
02/22/11	122 DFK	Attend court re: initial hearing on PI Motion	1.80	400.00	720.00	<input type="checkbox"/>					
02/22/11	122 DFK	Draft opposition to FOIA motion for interlocutory appeal re: denial of motion to dismiss	1.70	400.00	680.00	<input type="checkbox"/>					
02/22/11	122 DFK	Review Scully reply to proposal to resolve Stiller claim; forward to client	0.30	400.00	120.00	<input type="checkbox"/>					
02/22/11	122 DFK	Draft reply to FOA opposition to Summary Judgment motion	2.80	400.00	1,120.00	<input type="checkbox"/>					
02/23/11	122 DFK	Prepare for Court and telcon with Mercer re: hearing on summary judgment motions; prepare replies	5.80	400.00	2,320.00	<input type="checkbox"/>					
02/23/11	122 DFK	Prepare response to FOA motion for interlocutory appeal	1.20	400.00	480.00	<input type="checkbox"/>					
02/24/11	122 DFK	Attend court re hearing on cross-motion for summary judgment	5.30	400.00	2,120.00	<input type="checkbox"/>					
02/25/11	122 DFK	Review E-mail from Barnsback and respond re: CSI appeal	0.20	400.00	80.00	<input type="checkbox"/>					

Odin, Feldman, Pittman, PC

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BILLING MEMO
 CLIENT 52144 Gordon Properties, LLC
 FEES BILL THRU DATE: March 31, 2011
 COSTS BILL THRU DATE: March 31, 2011
 Area of Practice
 Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King
ORIGINATING PROFESSIONAL:
 Donald F. King
 *** BILLING NOTES ***
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UNBILLED TIME (Through 03/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO Show	N/C	W/O	HLD	TRF	TRF TO
03/23/11	SAC	Review and research for reply to brief on collateral estoppel	0.30	215.00	64.50	<input type="checkbox"/>					
03/25/11	SAC	Research re collateral estoppel and res judicata	1.60	215.00	344.00	<input type="checkbox"/>					
03/23/11	SAC	Research and draft memo re res judicata and collateral estoppel, confer with DFK re same	1.40	215.00	301.00	<input type="checkbox"/>					
03/03/11	DFK	Review file and documents re brief in response to FOIA collateral brief	0.70	400.00	280.00	<input type="checkbox"/>					
03/31/11	BMB	Prepare case Review brief, c/f S Cobb	0.40	375.00	150.00	<input type="checkbox"/>					
03/31/11	SAC	Research and draft opposition re res judicata and collateral estoppel	2.80	215.00	602.00	<input type="checkbox"/>					

TOTAL ACTUAL HOURS 154.70
TOTAL ACTUAL DOLLAR VALUE \$50,541.00

CLIENT 52144 Gordon Properties, LLC
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING MEMO
FEES BILL-THRU DATE: August 31, 2011
COSTS BILL-THRU DATE: August 31, 2011



BILLING PROFESSIONAL:
 Donald F. King

RESPONSIBLE PROFESSIONAL:
 Donald F. King

*** BILLING NOTES ***
 BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP

UNBILLED TIME (Through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO SHOW	M/C	W/O	HLD	TRF	TRF TO
04/01/11	122 DFK	Research legal issues and prepare supplemental memo on collateral estoppel	1.40	400.00	560.00	<input type="checkbox"/>					
04/01/11	122 DFK	Review file and documents and prepare for deposition of FOA re: PI motion	1.60	400.00	640.00	<input type="checkbox"/>					
04/01/11	752 SAC	Research collateral estoppel issue for reply brief	2.10	215.00	451.50	<input type="checkbox"/>					
04/03/11	752 SAC	Research and edit brief re res judicata and collateral estoppel	3.00	215.00	645.00	<input type="checkbox"/>					
04/04/11	142 BMB	Attend Deposition; review resjudicate / Collated memo	0.40	375.00	150.00	<input type="checkbox"/>					
04/04/11	122 DFK	Prepare for deposition of FOA re: PI Motion; Review FOA discovery responses	2.20	400.00	880.00	<input type="checkbox"/>					
04/04/11	122 DFK	Revise and prepare final of supplemental memorandum for summary judgment re collateral estoppel issues	3.70	400.00	1,480.00	<input type="checkbox"/>					

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BILLING MEMO
 FEES BILL-THRU DATE: August 31, 2011
 COSTS BILL-THRU DATE: August 31, 2011
 Area of Practice
 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144-00001 Gordon Properties, LLC - Chapter 11
BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King
ORIGINATING PROFESSIONAL:
 Donald F. King
BILLING NOTES ***
 *** BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP

UNBILLED TIME (through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	NIC	W/O	HLD	TRF	TRF TO
04/04/11	150 RCD	Prepare and revise request for payment.	2.60	175.00	455.00	<input type="checkbox"/>					
04/04/11	150 RCD	Review documentation and call to DeMuro Gensberg re: Special Counsel fee application.	0.40	175.00	70.00	<input type="checkbox"/>					
04/04/11	752 SAC	Edt: brief, confer with DFK re revisions	1.90	215.00	408.50	<input type="checkbox"/>					
04/05/11	122 DFK	Attend Deposition of FOA re: PI motion	5.80	400.00	2,320.00	<input type="checkbox"/>					
04/05/11	150 RCD	Review OF&P fee application; E-mail to DeMuro re: items needed.	0.80	175.00	140.00	<input type="checkbox"/>					
04/06/11	122 DFK	Communicate with Client re: preparation for deposition	0.60	400.00	240.00	<input type="checkbox"/>					
04/06/11	122 DFK	Draft E-mail to client re: depositions	0.30	400.00	120.00	<input type="checkbox"/>					
04/06/11	150 RCD	Communicate with co-counsel M. Barmback and revise pleadings.	0.80	175.00	140.00	<input type="checkbox"/>					
04/07/11	122 DFK	Attend Deposition of Gordon Properties designee (Sells) and CSI designee (Riviere) re: PI motion	6.30	400.00	2,520.00	<input type="checkbox"/>					

Odin, Feldman, Pillemer, PC

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BILLING MEMO
 CLIENT 52144 Gordon Properties, LLC
 FEES BILL-THRU DATE: August 31, 2011
 AREA OF PRACTICE
 MATTER 52144.00001 Gordon Properties, LLC - Chapter 11
 COSTS BILL-THRU DATE: August 31, 2011
 Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:
 Donald F. King
RESPONSIBLE PROFESSIONAL:
 Donald F. King

*** BILLING NOTES ***
 *** BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP

ORIGINATING PROFESSIONAL:
 Donald F. King

UNBILLED TIME (through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	MC	W/O	HLD	TRF	TRF TO
04/07/11	150	RCD Communicate with M. Barnsback and revise pleadings.	0.40	175.00	70.00	<input type="checkbox"/>					
04/12/11	122	DFK Analyze case and issues re: possible settlement of PI motion; Discuss same with Sarvadi	0.40	400.00	160.00	<input type="checkbox"/>					
04/12/11	122	DFK Attend court re hearing on borrowing motion and status hearing on claim of fee claim	1.80	400.00	720.00	<input type="checkbox"/>					
04/12/11	122	DFK Analyze case and issues and plan for PI motion trial; Draft proposed consent order resolving PI motion; Transmit to client for review	2.60	400.00	1,040.00	<input type="checkbox"/>					
04/12/11	122	DFK Communicate with client re: result of today's hearings; Email to client with loan documents for borrowing motion	0.40	400.00	160.00	<input type="checkbox"/>					
04/13/11	122	DFK Communicate with Client re: issues for PI motion; Status re: borrowing motion	2.40	400.00	960.00	<input type="checkbox"/>					
04/13/11	122	DFK Revise proposed consent order resolving PI motion; Discussions with client and Mercer re: same; Email to Sarvadi re: same	1.70	400.00	680.00	<input type="checkbox"/>					

Adv. Feldman, Pittman, PC

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC

FEES BILL-THRU DATE: August 31, 2011

Area of Practice

MATTER 52144 00001 Gordon Properties, LLC - Chapter 11

COSTS BILL-THRU DATE: August 31, 2011

Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***

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BILL WITH STAMP

UNBILLED TIME (Through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
04/24/11	DFK	Prepare for Court re: adjourned hearing on PI Motion	3.40	400.00	1,360.00	<input type="checkbox"/>					
04/25/11	DFK	Attend court re: adjourned hearing on PI motion	5.80	400.00	2,320.00	<input type="checkbox"/>					
04/26/11	DFK	Communicate with Client re designation of state court record for summary judgment motion and claim objection	0.30	400.00	120.00	<input type="checkbox"/>					
04/26/11	DFK	Review E-mail from client and respond re: Reed Smith issues	0.20	400.00	80.00	<input type="checkbox"/>					
04/26/11	DFK	Draft E-mail to Dingrman re designation of state court record	0.20	400.00	80.00	<input type="checkbox"/>					
04/27/11	DFK	Communicate with Client re designation of state court record for claim objection	0.30	400.00	120.00	<input type="checkbox"/>					
04/27/11	DFK	Communicate with Client and Mercer re: Reed Smith issues	0.40	400.00	160.00	<input type="checkbox"/>					

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11
FEEs BILL-THRU DATE: August 31, 2011
COSTS BILL-THRU DATE: August 31, 2011
Area of Practice
Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***
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UNBILLED TIME (Through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO Show	N/C	W/O	HLD	TRF	TRF TO
04/28/11	DFK	Meet with co-counsel Doug Ross re: Reed Smith letter	0.30	400.00	120.00	<input type="checkbox"/>					
04/28/11	DFK	Draft disqualification letter to Reed Smith; emails with client discussing same	1.80	400.00	720.00	<input type="checkbox"/>					
04/28/11	DFK	Review Rule 34 notice from 4th Circuit; email to client	0.20	400.00	80.00	<input type="checkbox"/>					
04/28/11	DFK	Communicate with Client re designation of state court records; emails to Dingman re same	0.70	400.00	280.00	<input type="checkbox"/>					
04/28/11	FDR	Analyze case and issues with D. King re Dis Q. Letter	0.30	375.00	112.50	<input type="checkbox"/>					
04/28/11	FDR	Review Disq-Ltr	0.10	375.00	37.50	<input type="checkbox"/>					
04/29/11	DFK	Communicate with Opposing Counsel re transcript designators from State Court proceeding; discuss same with client	0.50	400.00	200.00	<input type="checkbox"/>					
04/29/11	DFK	Review E-mail from client and respond re: FOA Board action	0.30	400.00	120.00	<input type="checkbox"/>					

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BILLING MEMO
 CLIENT 52144 Gordon Properties, LLC
 FEES BILL-THRU DATE: August 31, 2011
 AREA OF PRACTICE: Bankruptcy - Miscellaneous
 COSTS BILL-THRU DATE: August 31, 2011

BILLING PROFESSIONAL: Donald F. King
RESPONSIBLE PROFESSIONAL: Donald F. King
ORIGINATING PROFESSIONAL: Donald F. King

*** BILLING NOTES ***
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UNBILLED TIME (Through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO SHOW	N/C	W/O	HLD	TRF	TRF TO
05/10/11	JWR	Prepare for Court hearing on second interim application for payment of fees to Dimuro Ginsberg	0.40	300.00	120.00	<input type="checkbox"/>					
05/10/11	DFK	Communicate with Client re status, issues and strategy on various pending matters (Client adversary)	0.70	400.00	280.00	<input type="checkbox"/>					
05/10/11	JWR	Attend court hearing on approval of Dimuro Ginsburg fee application	1.80	300.00	540.00	<input type="checkbox"/>					
05/12/11	DFK	Communicate with Opposing Counsel Sarvadi re: orders	0.20	400.00	80.00	<input type="checkbox"/>					
05/16/11	DFK	Review and revise draft order re: motion to dismiss PI complaint, email to Sarvadi re: same	0.60	400.00	240.00	<input type="checkbox"/>					
05/18/11	DFK	Review E-mail from Ryan Day and respond re: order on motion to dismiss	0.20	400.00	80.00	<input type="checkbox"/>					
05/20/11	DFK	Prepare supplemental brief re state court filings and collateral estoppel and file with court	3.60	400.00	1,440.00	<input type="checkbox"/>					

Osin, Feldman, Pittman, PC

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BILLING MEMO

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FEE'S BILL-THRU DATE: August 31, 2011 Area of Practice

COSTS BILL-THRU DATE: August 31, 2011 Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL: Donald F. King

RESPONSIBLE PROFESSIONAL: Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

*** BILLING NOTES ***

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UNBILLED TIME (Through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
05/23/11	DFK	Communicate with Opposing Counsel Dingman re supplemental brief on respiration	0.20	400.00	80.00	<input type="checkbox"/>					
05/23/11	DFK	Communicate with Court re: status hearing on PI compliant	0.20	400.00	80.00	<input type="checkbox"/>					
05/24/11	DFK	Review Judge Meyer's memo opinions on motion to dismiss and motion for preliminary injunction	0.80	400.00	320.00	<input type="checkbox"/>					
05/24/11	DFK	Attend court re: status hearings on claim objection, injunction proceeding, motion for substantive consolidation	3.40	400.00	1,360.00	<input type="checkbox"/>					
05/25/11	DFK	Communicate with Client re status and strategy	0.30	400.00	120.00	<input type="checkbox"/>					
05/25/11	DFK	Review E-mail from Sells and respond re: memorandum opinions and status and strategy	1.40	400.00	560.00	<input type="checkbox"/>					
06/02/11	DFK	Review FQA reply re: collateral estoppel, transmit to Client	0.60	400.00	240.00	<input type="checkbox"/>					
06/02/11	DFK	Review 4th Circuit opinion dismissing	0.40	400.00	160.00	<input type="checkbox"/>					

John F. Dickman, Pittman, PC

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC

FEES BILL-THRU DATE: August 31, 2011

Area of Practice

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

COSTS BILL-THRU DATE: August 31, 2011

Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***

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BILL WITH STAMP

UNBILLED TIME (Through 09/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRE	TRE TO
07/21/11	DFK	Analyze case and issues re: settlement proposal; discuss same with client; E-mail to Sarvadi re: same.	0.60	400.00	240.00	<input type="checkbox"/>					
07/22/11	DFK	Prepare for Court re: expedited Hearing on Motion to strike evidence of damages.	0.80	400.00	320.00	<input type="checkbox"/>					
07/22/11	DFK	Review Judge Mayer's Opinion on cross-motions for summary judgment re: claim objection	0.70	400.00	280.00	<input type="checkbox"/>					
07/22/11	DFK	Draft proposed Consent Order for settlement purposes re: injunction action; E-mail same to Sarvadi.	1.60	400.00	640.00	<input type="checkbox"/>					
07/22/11	DFK	Attend court re: expedited Hearing on Motion to strike damages; meet with Sarvadi to discuss settlement.	3.70	400.00	1,480.00	<input type="checkbox"/>					
07/22/11	DFK	Prepare for Court re: trial on injunction complaint.	2.30	400.00	920.00	<input type="checkbox"/>					
07/24/11	DFK	Prepare for Court re: trial on injunction complaint.	5.80	400.00	2,320.00	<input type="checkbox"/>					

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BILLING MEMO
CLIENT 52144 Gordon Properties, LLC
FEES BILL-THRU DATE: August 31, 2011
Area of Practice
MATTER 52144.00001 Gordon Properties, LLC - Chapter 11
COSTS BILL-THRU DATE: August 31, 2011
Bankruptcy - Miscellaneous

BILLING PROFESSIONAL: Donald F. King
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UNBILLED TIME (through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
07/31/11	DFK	Analyze case and issues re appeal of Court's rulings on Summary Judgment Motions on claim objection, discuss same with client	0.80	400.00	320.00	<input type="checkbox"/>					
07/31/11	DFK	Review E-mail from client and respond re: draft Notice for Duke Crier.	0.30	400.00	120.00	<input type="checkbox"/>					
08/01/11	DFK	Negotiate with opposing counsel re: draft injunction order	0.80	400.00	320.00	<input type="checkbox"/>					
08/02/11	DFK	Review E-mail from Benki and respond re: policy resolutions	0.40	400.00	160.00	<input type="checkbox"/>					
08/02/11	DFK	Attend Deposition of accountant Jim Snyder by FOA re: consolidation trial	5.80	400.00	2,240.00	<input type="checkbox"/>					
08/03/11	DFK	Draft and file notice of appeal re summary judgment order on claim objection	0.80	400.00	320.00	<input type="checkbox"/>					
08/03/11	DFK	Draft and file motion for leave to appeal	1.20	400.00	480.00	<input type="checkbox"/>					

Odin, Feldman, Pillemer, PC

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC **FEES BILL-THRU DATE:** August 31, 2011 **Area of Practice**

MATTER 52144 00001 Gordon Properties, LLC - Chapter 11 **COSTS BILL-THRU DATE:** August 31, 2011 **Bankruptcy - Miscellaneous**

BILLING PROFESSIONAL: **RESPONSIBLE PROFESSIONAL:** Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

*** **BILLING NOTES** ***

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UNBILLED TIME (Through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	No Show	N/C	W/O	HLD	TRF	TRF TO
08/03/11	122 DFK	Revise meeting procedures; email to Sarvadi	0.40	400.00	160.00	<input type="checkbox"/>					
08/04/11	122 DFK	Review draft letter to FOA re: policy resolution 2009; email to client and mercer	0.40	400.00	160.00	<input type="checkbox"/>					
08/04/11	122 DFK	Prepare and file order regarding injuncton; email to Sarvadi re: same	0.50	400.00	200.00	<input type="checkbox"/>					
08/05/11	122 DFK	Review E-mail from Marino and respond re: accepting service of subpoenas to Wilson and Sells for consolidation hearing	0.20	400.00	80.00	<input type="checkbox"/>					
08/06/11	122 DFK	Attend Court re status hearing on claim objection	2.20	400.00	880.00	<input type="checkbox"/>					
08/08/11	122 DFK	Communicate with Opposing Counsel Dingman re: accepting service of witness subpoenas; discuss same with client; email to Dingman	0.30	400.00	120.00	<input type="checkbox"/>					
08/08/11	122 DFK	Draft E-mail to Marino re: failure to appear at status hearing and rescheduling to 8/9/11	0.30	400.00	120.00	<input type="checkbox"/>					

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BILLING MEMO
FEES BILL-THRU DATE: August 31, 2011
COSTS BILL-THRU DATE: August 31, 2011

Area of Practice
Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL: RESPONSIBLE PROFESSIONAL:

Donald F. King Donald F. King

*** BILLING NOTES ***

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UNBILLED TIME (through 08/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	NO Show	N/C	W/O	HLD	TRE	TRE TO
08/08/11	122 DFK	Review Sarvadi revisions to draft injunction order; email to Sarvadi re: same	0.50	400.00	200.00	<input type="checkbox"/>					
08/08/11	729 EFS	Emails with B. Sells; email with R. Mendelson; emails with S. Donica; email with J. Moreno.	1.00	310.00	310.00	<input type="checkbox"/>					
08/09/11	122 DFK	Attended court re follow up hearing on injunction to obtain court's clarification and status hearing on claim objection	3.40	400.00	1,360.00	<input type="checkbox"/>					
08/09/11	122 DFK	Review E-mail from client and respond re: proposed EA	0.20	400.00	80.00	<input type="checkbox"/>					
08/09/11	122 DFK	Review exhibits and witness list filed by FOA re: consolidation hearing; transmit to client	0.50	400.00	200.00	<input type="checkbox"/>					
08/09/11	122 DFK	Analyze case and issues re: motion in limine for consolidation hearing; research legal issues	1.40	400.00	560.00	<input type="checkbox"/>					
08/10/11	122 DFK	Communicate with co-counsel Bruce Blanchard re: SOL on D&O claims	0.20	400.00	80.00	<input type="checkbox"/>					

Odin, Feldman, Pittman, PC

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BILLING MEMO

FEES BILL-THRU DATE: December 31, 2011

COSTS BILL-THRU DATE: December 31, 2011

RESPONSIBLE PROFESSIONAL: Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

BILLING NOTES *** BILL WITH BANKRUPTCY STAMP ***

UNBILLED TIME (through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	NIC	W/O	HLD	TRE	TRE TO
09/08/11	DFK	Draft email to client re: FOA notice of appeal	0.20	400.00	80.00			<input type="checkbox"/>					
09/07/11	DFK	Prepare and file stipulation of dismissal of appeal	1.80	400.00	720.00			<input type="checkbox"/>					
09/13/11	RCD	Prepare and revise Application; review all pending matters and appeals for status and descriptions.	2.20	175.00	385.00			<input type="checkbox"/>					
09/13/11	RCD	Review and revise Application; prepare Notice of hearing and proposed Order; prepare E-mail to DFK.	2.40	175.00	420.00			<input type="checkbox"/>					
09/16/11	HNL	Court appearance.	0.30	235.00	70.50			<input type="checkbox"/>					
09/19/11	DFK	Analyze case and issues re: FOA suit against Gordon Residential; email to client and Mercer re: thoughts and advice	1.30	400.00	520.00			<input type="checkbox"/>					
09/20/11	DFK	Prepare file and serve notice of	2.70	400.00	1,080.00			<input type="checkbox"/>					

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BILLING MEMO
FEES BILL-THRU DATE: December 31, 2011
Area of Practice
COSTS BILL-THRU DATE: December 31, 2011
Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144 00001 Gordon Properties, LLC - Chapter 11
BILLING PROFESSIONAL: RESPONSIBLE PROFESSIONAL:
Donald F. King Donald F. King

*** BILLING NOTES ***
BILL WITH BANKRUPTCY STAMP
BILL WITH STAMP

ORIGINATING PROFESSIONAL:
Donald F. King

UNBILLED TIME (Through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	N/C	W/O	HLD	TRF	TRF TO
10/26/11	752 SAC	Review and edit brief, double check case law, draft motion, confer with DKF re: same	1.50	230.00	345.00			<input type="checkbox"/>					
10/27/11	122 DFK	Review court order refrain from filing pending mediation	0.20	400.00	80.00			<input type="checkbox"/>					
10/27/11	122 DFK	Communicate with District Court re: mediation schedule	0.20	400.00	80.00			<input type="checkbox"/>					
10/27/11	122 DFK	Analyze case and issues re: mediation	1.30	400.00	520.00			<input type="checkbox"/>					
10/27/11	122 DFK	Draft discovery re: claim objection	4.80	400.00	1,920.00			<input type="checkbox"/>					
10/28/11	122 DFK	Communicate with Client re: mediation issues	0.20	400.00	80.00			<input type="checkbox"/>					
10/31/11	122 DFK	Draft and file objection to EA interim report	2.70	400.00	1,080.00			<input type="checkbox"/>					
11/01/11	122 DFK	Prepare for Court re: status hearings	0.80	400.00	320.00			<input type="checkbox"/>					
11/02/11	122 DFK	Draft and file answer to motion for relief from stay	2.40	400.00	960.00			<input type="checkbox"/>					

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BILLING MEMO

FEES BILL-THRU DATE: December 31, 2011

Area of Practice

COSTS BILL-THRU DATE: December 31, 2011

Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL: RESPONSIBLE PROFESSIONAL:

Donald F. King Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***

*** BILL WITH BANKRUPTCY STAMP

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UNBILLED TIME (Through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	N/C	W/O	HLD	TRF	TRF TO
11/11/11	DFK	Negotiate with opposing counsel Dingman re: motion to compel expert report	0.70	400.00	280.00			<input type="checkbox"/>					
11/11/11	DFK	Communicate with Client re: settlement proposal to FOA	0.30	400.00	120.00			<input type="checkbox"/>					
11/11/11	DFK	Draft E-mail to Sarvadi with settlement proposal	0.50	400.00	200.00			<input type="checkbox"/>					
11/11/11	DFK	Communicate with Client re: discovery responses for claim objection litigation	0.30	400.00	120.00			<input type="checkbox"/>					
11/11/11	DFK	Attend court re emergency motion to compel expert report	3.70	400.00	1,480.00			<input type="checkbox"/>					
11/14/11	DFK	Prepare for Court re expedited hearing on motion to compel expert report	0.80	400.00	320.00			<input type="checkbox"/>					
11/14/11	DFK	Attend court re: hearing on motion to compel expert report	2.60	400.00	1,040.00			<input type="checkbox"/>					
11/14/11	DFK	Draft E-mail to EA re: request to review proxies	0.20	400.00	80.00			<input type="checkbox"/>					

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC

FEES BILL-THRU DATE: December 31, 2011

MATTER 52144-00001 Gordon Properties, LLC - Chapter 11

COSTS BILL-THRU DATE: December 31, 2011

RESPONSIBLE PROFESSIONAL: Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

BILLING PROFESSIONAL: Donald F. King

Area of Practice Bankruptcy - Miscellaneous

*** BILLING NOTES ***
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UNBILLED TIME (Through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	M/C	W/O	HLD	TRF	TRF TO
12/07/11	DFK	Communicate with expert re: deposition scheduling	0.20	400.00	80.00			<input type="checkbox"/>					
12/07/11	DFK	Communicate with Opposing Counsel Dingman re: deposition schedule	0.20	400.00	80.00			<input type="checkbox"/>					
12/07/11	DFK	Analyze case and issues re: election objections	1.30	400.00	520.00			<input type="checkbox"/>					
12/07/11	DFK	Analyze case and issues re: claim objection, trial prep, depositions	4.40	400.00	1,760.00			<input type="checkbox"/>					
12/07/11	RCD	Prepare Application to Employ Cavanaugh and Company with Declaration and proposed Order.	1.10	175.00	192.50			<input type="checkbox"/>					
12/03/11	DFK	Analyze case and issues and prepare for trial and deposition on claim objection	5.70	400.00	2,280.00			<input type="checkbox"/>					
12/03/11	DFK	Communicate with Client and prepare election objections	1.40	400.00	560.00			<input type="checkbox"/>					
12/03/11	DFK	Draft E-mail to Judge Davis' clerk re: mediation	0.50	400.00	200.00			<input type="checkbox"/>					

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BILLING MEMO

FEES BILL-THRU DATE: December 31, 2011

Area of Practice

COSTS BILL-THRU DATE: December 31, 2011

Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL: Donald F. King

RESPONSIBLE PROFESSIONAL: Donald F. King

ORIGINATING PROFESSIONAL: Donald F. King

*** BILLING NOTES ***
BILL WITH BANKRUPTCY STAMP
BILL WITH STAMP

UNBILLED TIME (Through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	M/C	W/O	HLD	TRF	TRF TO
12/13/11	DFK	Draft E-mail to Judge Davis' clerk re: mediation	0.40	400.00	160.00			<input type="checkbox"/>					
12/13/11	DFK	Draft E-mail to Judge Mayer's clerk re: request to continue claim objection trial	0.50	400.00	200.00			<input type="checkbox"/>					
12/14/11	DFK	Prepare for Court re: hearing on FOA lift stay motion	0.70	400.00	280.00			<input type="checkbox"/>					
12/14/11	DFK	Attend court re: hearing on motion by FOA for relief from stay, hearing on oral motion to continue trial on claim objection	2.90	400.00	1,160.00			<input type="checkbox"/>					
12/14/11	DFK	Draft E-mail to Cavanaugh re: new trial schedule	0.20	400.00	80.00			<input type="checkbox"/>					
12/14/11	DFK	Communicate with Client re: result of hearing	0.40	400.00	160.00			<input type="checkbox"/>					
12/14/11	DFK	Draft amended scheduling order re: claim objection, email same to Dingman	1.20	400.00	480.00			<input type="checkbox"/>					
12/15/11	DFK	Draft E-mail to Sarvedi confirming	0.20	400.00	80.00			<input type="checkbox"/>					

BILLING MEMO

CLIENT 52144 Gordon Properties, LLC
MATTER 52144 00001 Gordon Properties, LLC - Chapter 11
FEEs BILL-THRU DATE: December 31, 2011
COSTS BILL-THRU DATE: December 31, 2011
Area of Practice
Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***
*** BILL WITH BANKRUPTCY STAMP
BILL WITH STAMP

UNBILLED TIME (through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	N/C	W/O	HLD	TRF	TRF TO
12/15/11	DFK	Draft E-mail to Cavarrugh re cancellation of deposition	0.20	400.00	80.00			<input type="checkbox"/>					
12/15/11	DFK	Review E-mail from EA and respond re: request to extend time to file report	0.20	400.00	80.00			<input type="checkbox"/>					
12/16/11	DFK	Review E-mail from Sarvadi and respond re: availability on 2/27 for hearing on election dispute	0.20	400.00	80.00			<input type="checkbox"/>					
12/16/11	DFK	Review E-mail from EA and respond re: request to extend time for report	0.20	400.00	80.00			<input type="checkbox"/>					
12/19/11	DFK	Review E-mail from Zupan and respond re: telcon to discuss arbitration	0.20	400.00	80.00			<input type="checkbox"/>					
12/19/11	DFK	Draft E-mail to Dingman re status of scheduling order on claim objection	0.20	400.00	80.00			<input type="checkbox"/>					
12/19/11	EFS	Emails with B. Sells; emails with Joe Morena re: Mango Mike termination date.	0.30	310.00	93.00			<input type="checkbox"/>					

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BILLING MEMO
FEES BILL-THRU DATE: December 31, 2011

COSTS BILL-THRU DATE: December 31, 2011
Area of Practice
Bankruptcy - Miscellaneous

CLIENT 52144 Gordon Properties, LLC
MATTER 52144 00001 Gordon Properties, LLC - Chapter 11
BILLING PROFESSIONAL:
Donald F. King
RESPONSIBLE PROFESSIONAL:
Donald F. King

*** BILLING NOTES ***
BILL WITH BANKRUPTCY STAMP
BILL WITH STAMP

ORIGINATING PROFESSIONAL:
Donald F. King

UNBILLED TIME (through 12/31/2011)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	SHOW	M/C	W/O	H/LD	TRF	TRF TO
12/23/11	DFK	Review E-mail from Dingman and respond re scheduling order for claim objection	0.20	400.00	80.00			<input type="checkbox"/>					
12/27/11	DFK	Review E-mail from Martino and respond re: proposed order granting relief from stay	0.40	400.00	160.00			<input type="checkbox"/>					
12/27/11	DFK	Review E-mail from Dingman and respond re: amended scheduling order for claim objection	0.50	400.00	200.00			<input type="checkbox"/>					
12/27/11	DFK	Communicate with Opposing Counsel Dingman re: deposition schedule	0.20	400.00	80.00			<input type="checkbox"/>					
12/27/11	DFK	Analyze case and issues re: election dispute; failure of EA to report election results; email to Sarvadi re: same	1.60	400.00	640.00			<input type="checkbox"/>					
12/27/11	DFK	Communicate with EA (email) re: report of election results	0.30	400.00	120.00			<input type="checkbox"/>					
12/28/11	DFK	Review order from USDC re: briefing schedule for motion to reconsider	0.20	400.00	80.00			<input type="checkbox"/>					

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Case 08-18086-RGM Doc 698-1 Filed 09/16/13 Entered 09/16/13 16:35:37 Desc
Case 09-18086-RGM Doc 699-1 Filed 09/16/13 Entered 09/16/13 10:02:59 Desc
Doc 684-4 Filed 09/04/13 Entered 09/04/13 20:50:42 Desc
Doc 698-1 Filed 09/16/13 Entered 09/16/13 16:35:37 Desc
Doc 699-1 Filed 09/16/13 Entered 09/16/13 10:02:59 Desc

BILLING MEMO

CLIENT 52144 Gordon Properties, LLC
FEE'S BILL-THRU DATE: February 29, 2012
COSTS BILL-THRU DATE: February 29, 2012
Area of Practice
Bankruptcy - Miscellaneous

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***

BILL WITH BANKRUPTCY STAMP

BILL WITH STAMP

UNBILLED TIME (Through 02/29/2012)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	M/C	W/O	HLD	TRF	TRF TO
01/20/12	DFK	court rulings from January 10 hearing	2.40	400.00	960.00			<input type="checkbox"/>					
01/20/12	DFK	Revise reply re: motion to reconsider stay pending appeal; file and serve	2.50	400.00	1,000.00			<input type="checkbox"/>					
01/20/12	DFK	Analyze case and issues re: claim objection; prepare for deposition	0.80	400.00	320.00			<input type="checkbox"/>					
01/20/12	DFK	Revise order directing EA to report election results; email to Sarvadi; file through Bops	0.60	400.00	240.00			<input type="checkbox"/>					
01/20/12	DFK	Revise amended scheduling order re: election dispute; email to Sarvadi; file through Bops	0.70	400.00	280.00			<input type="checkbox"/>					
01/20/12	DFK	Revise order on EA motion for protective order; email to Sarvadi	0.30	250.00	75.00			<input type="checkbox"/>					
01/20/12	SAC	Court appearance.	0.30	230.00	69.00			<input type="checkbox"/>					
01/20/12	DFK	Final edits to reply brief	4.60	400.00	1,840.00			<input type="checkbox"/>					
01/21/12	DFK	Prepare for deposition regarding claim objection (FOA and Steele)						<input type="checkbox"/>					

Odin, Feldman, Pittman, PC

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC

Area of Practice

FEEES BILL-THRU DATE: February 29, 2012 Bankruptcy - Miscellaneous

Desc

MATTER 52144.00001 Gordon Properties, LLC - Chapter 11

COSTS BILL-THRU DATE: February 29, 2012

Area of Practice

BILLING PROFESSIONAL: RESPONSIBLE PROFESSIONAL: Donald F. King

*** BILLING NOTES ***

ORIGINATING PROFESSIONAL: Donald F. King

BILL WITH BANKRUPTCY STAMP

UNBILLED TIME (Through 02/29/2012)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	N/C	W/O	HLD	TRF	TRF TO
01/26/12	DFK	Analyze case and issues re reconsideration of summary judgment order	0.60	400.00	240.00			<input type="checkbox"/>					
01/26/12	DFK	Review E-mail from Saravadi and respond re: FOA settlement proposal	0.20	400.00	80.00			<input type="checkbox"/>					
01/27/12	DFK	Analyze case and issues re: election dispute; review analysis from client	1.60	400.00	640.00			<input type="checkbox"/>					
01/27/12	DFK	Review documentation and communicate with Dingman re: discovery dispute	1.30	400.00	520.00			<input type="checkbox"/>					
01/27/12	DFK	Communicate with Client re status, issues and strategy re: claim objection, settlement proposal, election dispute	0.80	400.00	320.00			<input type="checkbox"/>					
01/27/12	DFK	Review E-mail from client and respond re: analysis for FOA settlement proposal	0.30	400.00	120.00			<input type="checkbox"/>					
01/30/12	DFK	Review E-mail from EA and respond re: inspection of ballots and deposition	0.20	400.00	80.00			<input type="checkbox"/>					
01/30/12	DFK	Draft motion to reconsider summary judgment order	6.80	400.00	2,720.00			<input type="checkbox"/>					

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 Case 09-18086-RGM Filed 09/16/13 16:35:37 Desc
 Case 09-18086-RGM Filed 03/14/12 11:24:41 Desc
 Doc 684-5 Filed 09/04/13 20:50:42 Desc
 Doc 693-1 Filed 09/16/13 16:35:37 Desc
 Doc 694-1 Filed 03/14/12 11:24:41 Desc
 Exhibit C
 Exhibit D
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 Exhibit H
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 Exhibit J
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Desc Desc

CLIENT 52144 Gordon Properties, LLC
 MATTER 52144:00001 Gordon Properties, LLC - Chapter 11
 BILLING MEMO
 FEES BILL-THRU DATE: February 29, 2012
 COSTS BILL-THRU DATE: February 29, 2012
 Area of Practice
 Bankruptcy - Miscellaneous

BILLING PROFESSIONAL: RESPONSIBLE PROFESSIONAL: DONALD F. KING
 DONALD F. KING
 *** BILLING NOTES ***
 *** BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP
 ORIGINATING PROFESSIONAL: DONALD F. KING

UNBILLED TIME (Through 02/29/2012)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	N/C	W/O	HLD	TRE	TRE TO
01/30/12	DFK	Communicate with Client re motion to reconsider and claim objection issues	0.50	400.00	200.00			<input type="checkbox"/>					
01/30/12	SAC	Research and draft trial brief	2.70	230.00	621.00			<input type="checkbox"/>					
01/31/12	DFK	Draft E-mail to client re: ballot review	0.20	400.00	80.00			<input type="checkbox"/>					
02/01/12	DFK	Draft motion in limine re: FDA expert and motion to reconsider summary judgment	5.60	400.00	2,240.00			<input type="checkbox"/>					
02/01/12	DFK	Communicate with Opposing Counsel Marino (emails) re: motions in limine and scheduling	0.20	400.00	80.00			<input type="checkbox"/>					
02/02/12	DFK	Prepare for ballot review at EA's office; discuss same with client	0.70	400.00	280.00			<input type="checkbox"/>					
02/02/12	DFK	Attend Meeting at EA's office re: ballot review	3.60	400.00	1,440.00			<input type="checkbox"/>					
02/02/12	DFK	Prepare and file motion in limine re: FDA expert	1.20	400.00	480.00			<input type="checkbox"/>					
02/02/12	DFK	Prepare and file motion to reconsider /	2.30	400.00	920.00			<input type="checkbox"/>					

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BILLING MEMO

CLIENT 52144 Gordon Properties, LLC FEES BILL-THRU DATE: February 29, 2012 Area of Practice
 MATTER 52144-00001 Gordon Properties, LLC - Chapter 11 COSTS BILL-THRU DATE February 29, 2012 Bankruptcy - Miscellaneous

BILLING PROFESSIONAL:

Donald F. King

RESPONSIBLE PROFESSIONAL:

Donald F. King

ORIGINATING PROFESSIONAL:

Donald F. King

*** BILLING NOTES ***
 BILL WITH BANKRUPTCY STAMP
 BILL WITH STAMP

UNBILLED TIME (Through 02/29/2012)

DATE	ATTORNEY	WORK DESCRIPTION	ACTUAL HOURS	RATE	AMOUNT	TASK CODE	ACTIVITY CODE	No Show	N/C	W/O	HLD	TRF	TRF TO
02/03/12	DFK	clarify summary judgment order	0.80	400.00	320.00			<input type="checkbox"/>					
02/04/12	DFK	Research legal issues re: statute of limitations and laches; discuss same with Stephen Cobb	4.30	400.00	1,720.00			<input type="checkbox"/>					
02/05/12	DFK	Prepare for trial and prepare trial exhibits re: claim objection	3.80	400.00	1,520.00			<input type="checkbox"/>					
02/06/12	DFK	Prepare for trial and prepare trial exhibits re: claim objection	0.20	400.00	80.00			<input type="checkbox"/>					
02/06/12	DFK	Meet with co-counsel Stephen Cobb re: EDVA procedures	0.20	400.00	80.00			<input type="checkbox"/>					
02/06/12	DFK	Draft E-mail to Dingman and Servadi re: appeal scheduling	0.20	400.00	80.00			<input type="checkbox"/>					
02/06/12	DFK	Draft admissions re: election dispute	1.60	400.00	640.00			<input type="checkbox"/>					
02/06/12	DFK	Review FOA exhibit and witness lists; email to client	0.40	400.00	160.00			<input type="checkbox"/>					
02/06/12	DFK	Prepare exhibits	0.70	400.00	280.00			<input type="checkbox"/>					
02/06/12	SAC	Research re laches and partial SJ	2.00	230.00	460.00			<input type="checkbox"/>					

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Case 09-18086-RGM Filed 09/04/13 Entered 09/04/13 20:50:42 Desc
 Case 09-18086-RGM Filed 09/16/13 Entered 09/16/13 16:35:37 Desc
 Case 09-18086-RGM Filed 03/14/12 Entered 03/14/12 11:24:41 Desc

MERCERTRIGIANI

September 30, 2010

Invoice submitted to:

Gordon Properties

c/o Bryan Sells, Managing Member
 1291 McLendon Avenue, NE
 Atlanta, GA 30307-2090

Invoice No. 426308

In Reference To: Appeal
 Account No. 875.00004

	<u>Amount</u>				
Previous balance					\$630.00
Current	30 Days	60 Days	90 Days	120 Days	
0.00	0.00	0.00	630.00	0.00	

In Reference To: Bankruptcy
 Account No. 875.00003

		<u>Hrs/Rate</u>	<u>Amount</u>
9/21/2010	MLZ Review Draft Objection to proof of claim; telephone call to Mr. King regarding same.	0.20 \$325.00/hr	65.00
9/23/2010	MLZ Telephone call with Mr. King regarding objections to proof of claim.	0.40 \$325.00/hr	130.00
For professional services rendered		0.60	\$195.00
Previous balance			\$422.50

112 South Alfred Street • Alexandria, Virginia 22314
 telephone: (703) 837-5000 • fax: (703) 837-5001

11 South Twelfth Street, Suite 401 • Richmond, Virginia 23219
 telephone: (804) 888-8800 • fax: (804) 888-8801

MERCERTRIGIANI
Gordon Properties

In Reference To: Bankruptcy
Account No. 875.00003

	<u>Hrs/Rate</u>	<u>Amount</u>
2/1/2011 MLZ Telephone call with Mr. King regarding summary judgment and depositions.	0.20 \$325.00/hr	65.00
2/3/2011 MLZ Conference with Mr. Mercer regarding corrective assessments.	0.30 \$325.00/hr	97.50
2/4/2011 MLZ Conference call with Mr. Mercer and Mr. King.	0.70 \$325.00/hr	227.50
For professional services rendered	<hr/> 1.20	<hr/> \$390.00

This invoice for legal services contains privileged communication between attorney and client. The invoice should be kept separate and apart from the books and records of the Association normally made available for public view.

MERCERTRIGIANI
 Gordon Properties

In Reference To: General Representation
 Account No. 875.00001

			<u>Hrs/Rate</u>	<u>Amount</u>
2/3/2011	DSM	Telephone exchange with MLZ on assessment issues and SOL matters.	0.50 \$350.00/hr	175.00
2/4/2011	DSM	Conference with MLZ; telephone conference with Don King on authority of FOA to retroactively change assessments.	1.20 \$350.00/hr	420.00
2/22/2011	DSM	Begin review of material for cross motions for summary judgment on February 24, 2011.	0.60 \$350.00/hr	210.00
2/23/2011	DSM	Review material for cron summary judgment motions on February 24, 2011; telephone exchange with Don King.	2.20 \$350.00/hr	770.00
2/24/2011	DSM	Attend hearing before Judge Mayor on cross motions for Summary Judgment.	3.00 \$350.00/hr	1,050.00
		For professional services rendered	7.50	\$2,625.00
		Previous balance		\$162.50
<hr/>				
	Current	30 Days	60 Days	90 Days
	2,625.00	162.50	0.00	0.00
				120 Days
				0.00

This invoice for legal services contains privileged communication between attorney and client. The invoice should be kept separate and apart from the books and records of the Association normally made available for public view.